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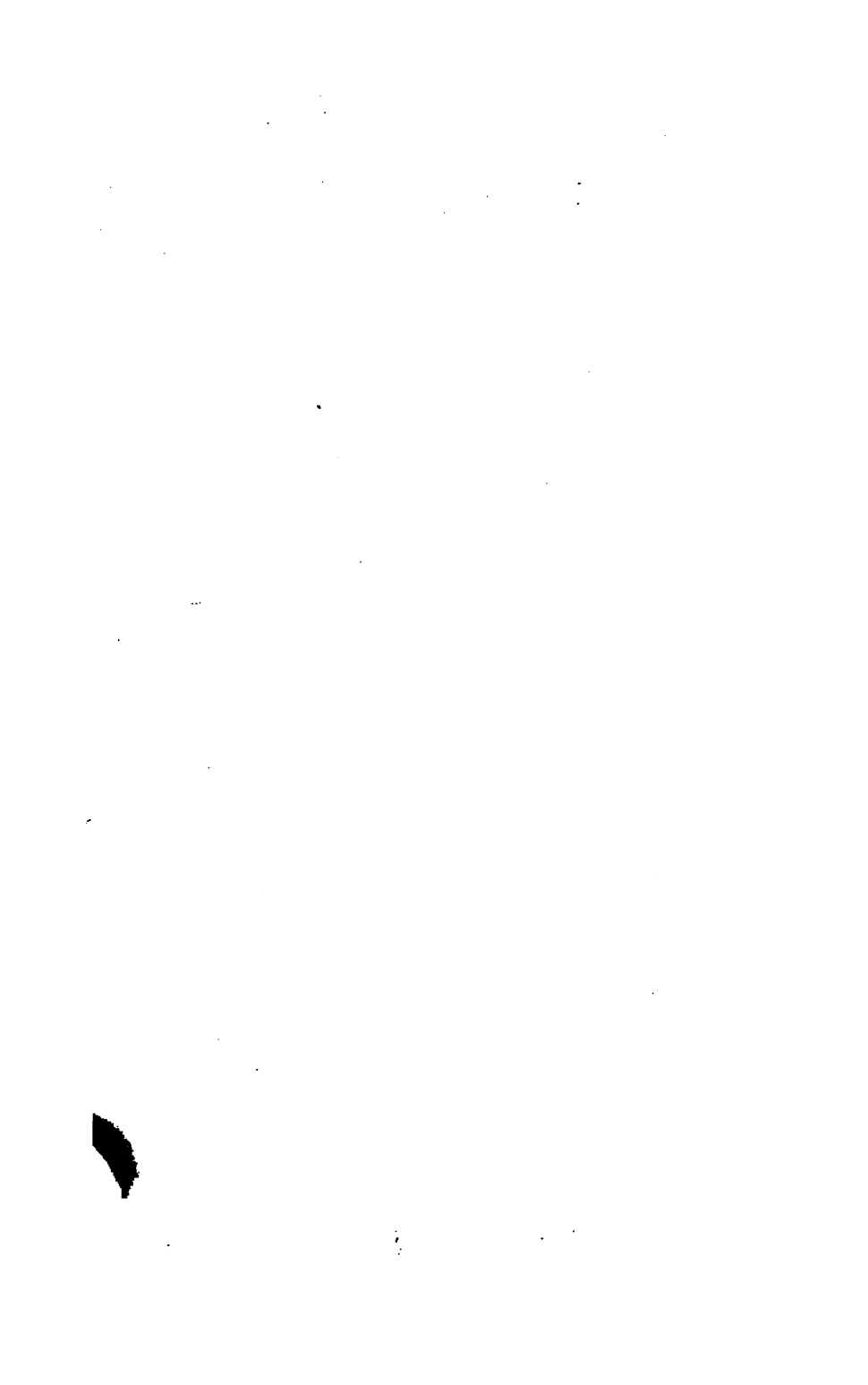
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**BARRIERS**  
**TO THE**  
**NATIONAL PROSPERITY OF SCOTLAND;**  
**OR, AN INQUIRY INTO**  
**SOME OF THE IMMEDIATE CAUSES**  
**OF**  
**MODERN SOCIAL EVILS.**

**BY R. ALISTER.** *Revised*  
*Alexander Robertson, of Thrunthorpe*

*"The conversion of small holdings into large farms, which ruined Rome, has destroyed Scotland."—MICHELET.*

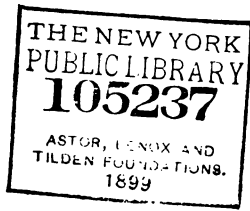
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1883



"IT WAS DURING THIS SAME PERIOD THAT PEACE AND PROSPERITY FOSTERED THE COLOSSAL GROWTH OF A FEW FORTUNES; OF THOSE, LATIFUNDIA, OR VAST DOMAINS, WHICH, ACCORDING TO PLINY THE ELDER, WERE THE DESTRUCTION OF ITALY, AND OF THE EMPIRE."—*Simondi.*

**INSCRIBED**

**TO**

**PATRICK EDWARD DOVE, Esq.,**

**AUTHOR OF**

**"THEORY OF HUMAN PROGRESSION."**



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# BARRIERS, &c.

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## GENERAL PRINCIPLES.

### ON SOCIOLOGY OR POLITICAL SCIENCE.

SOCIAL SCIENCE, properly speaking, had its origin in France. There it first took root, and thence it was transplanted to this country, towards the end of the last century, by Adam Smith and Sir James Stewart. Since then, it has been gradually growing in importance, and it will do so still, until much more light has been acquired upon it, and until its doctrines have been received and adopted by the people at large. At this moment it is much further advanced than ever it was, judging from the great number of devotees who worship at its shrine, and from the high-class works that have recently been published upon it. But if we look at the state of parties in our land, each pretending that its policy must effectually cure our social ills, we shall see that much requires to be done before Sociology can be ranked in the number of the exact sciences. The French likewise number among them writers of acknowledged ability in this department, and yet how low down is their place as a nation in the social scale! Turn again to Russia, where a single man sways, by physical force, the destinies of millions of people, and ask, Can *that* be a happy condition of a country? America is, upon the

whole, the foremost in the work of practical government. It is there that the greatest benefits can be obtained at the lowest price; in other words, all classes receive there a proper remuneration for their labour—that is, the unproductive get none, but the industrious get all. Keeping away from the slavery that exists in the southern states, America could doubtless afford a lesson to every state or kingdom in the known world, in the useful art of social government. The principal divisions of political economy that we propose to consider at present are—Population; Production of Wealth; Distribution of Wealth.

POPULATION.—This subject was first brought into notice by Malthus, who taught that the numbers of the people bear a proportionate ratio to the increase of the food. He showed the danger of multiplying the numbers of the people without a corresponding addition to the quantity of food. He also proposed that government should not sanction early marriages, for the purpose of checking the overgrowth of numbers. This theory called forth a host of opponents, and most people have regarded it as demolished by the fury of the onset. Dr Chalmers, while he entered into the views of Malthus, improved considerably upon them; and the whole of his excellent work on “Political Economy” goes to prove that the price of labour is regulated by the procreative powers of the labourers themselves. He does not advocate the propriety of preventing early marriages by legal enactment, but by increasing the comforts, and improving the mode of living of the humbler classes. Dr Chalmers instances the case of an Irish cottar, who, living upon potatoes, can marry when he pleases; whereas if he were accustomed to roast beef, he would delay marrying until he could provide the same kind of food for himself, his wife, and his family. Dr Wardlaw of Glasgow, in his lectures on “Female Prostitution,” advocates early marriages as the great preventive to immorality. Who shall decide when learned doctors so disagree? Doubleday again propounded another theory—*i.e.*, that as you increase

the comforts, as you improve the quality of the food—in other words, as you raise the style of living of the people—their numbers fall off proportionably. This is easily observed in the case of rich people, who commonly have small families, and the poor, who have generally a very numerous progeny.

It is not, however, to the causes of *increase* or *decrease* of population that we would now direct our attention. Let us notice the first great division of law, as laid down by Roman jurists, and by Blackstone, Erskine, and others, viz., **PERSONS**, premising that what regards them is the most important of all. It does not matter comparatively how the law affects **THINGS**, provided only it does not injuriously affect **PERSONS**. What injures the *health*,\* the *happiness*, the *morality* of human beings, is of more importance in the eyes of an enlightened legislature than a world of gear or things. Indeed, the legislature, properly speaking, cannot make laws to the manifest injury of the inhabitants. All property is held from government, with the understanding that it not only does not militate *against*, but *for, the greatest good* of the lieges. Thus a railroad is proved to be advantageous to the surrounding neighbourhood, and private property is violently invaded and

\* In agricultural lectures we very frequently hear learned discussions about the treatment of cattle; the Highland Society's chemist can dilate upon the proper degree of cold and warmth, upon cleanliness, &c., with a wonderful degree of exactness. But we argue that it would be far better still to inquire into what concerns the welfare of the human beings upon the farm. Was the temperature of a bothy ever thought of? Are there any learned disquisitions about the best modes of preserving the health of ploughmen and cottagers? Do they find out that bothies are bad, and cottages with one room are not good? It is a strange phase of the present times, and, we believe, unexampled in the past history of our world, that the brute beasts are pampered with every luxury, while the human kind are left without care. Such a characteristic of the present times is, we believe, *highly immoral*, and our country must suffer until better principles prevail. Let it be understood that we intend to argue only for the *human race*, that is, we shall value their interests, aye, the most humble individual among them, as preferable to consideration before that of all the cattle in Britain. All laws and conduct ought to consider *humanity* first and every thing else as secondary and subservient thereto.

sacrificed to the public good, the value only being accorded to the owner. On the other hand, a nuisance may be profitable to us personally; but the legislature does not contemplate our profit at the expense of the community, and accordingly the nuisance is abolished. In this country it is generally believed to be conducive to the good of the *whole* that property should belong to individuals, and that all things should not be held in common, as among the Moravians or the Mormons. Some writers, and these of no mean repute, prefer a system of communism, and that all large properties should be subdivided; and they endeavour to show that those of the peasantry who have *an interest* in the soil, are by far the most industrious and beneficial to the country. Believing as we do, that private property should be held sacred, we hold that no government has the power of gifting away the limited interest in the soil,\* which *all possess* either directly or indirectly. No one will openly say that the legislature has the power to banish hundreds of our best families annually (especially while our agricultural resources can be developed profitably to one-third more), but we maintain that government does so *indirectly*; and here lies the insidious, but no less vicious and destructive influence, which "protection to land" exercises upon our country. For a tithe of the treason practised by some of our clearing landlords, hundreds of thousands have been banished from their respective countries, in ancient and modern times; and yet our landlords not only escape censure, but claim for themselves the laurels of patriotism, and hold out that they only are the patrons of native industry! How far they are so, we shall by and by inquire. Lest we should be understood imperfectly, we shall lay down a few propositions or settled principles on this part of our subject.

*Government cannot (ethically) make laws that can be proved injurious to the persons of the inhabitants.* To the truth of this proposition all will give a formal assent. But try it against

\* The *perfect* rights of the people in the soil. See Dr Beattie on Perfect Rights.

any hobby of their own which they have got *protected* by unjust enactments, and perhaps you will see the forked tongue appearing. Of ourselves we are distinctly of opinion, that not only does the truth of the above proposition hold good *passively*, but farther, we are of opinion that it is the bounden duty of the government to interfere *actively*, and put down any practice that injures even the manners of the lieges: thus, should it be proved that in any district of a large town the numbers are by far too much augmented, the government ought to interfere and say, "Not more than a given number of inhabitants shall inhabit this square acre;" or, what would amount to the same thing, "It being found injurious to the health of the community to cram people too much together, and there being already too many tenants in this lane, we shall not allow you to increase them." Could our limits afford it, we could produce numerous examples of this enlightened spirit among our legislators,—such as the truck act, the factory act, and the enactments relative to women working in collieries.

There is one objection that will suggest itself here to many, viz., This will injure private property and private enterprise, and thereby injure the trade of the country. When the factory act was passed, now allowed to be most salutary in its effects, great millowners cried out vociferously against it. "Other nations," said they, "are coming up hard upon us, and shall we make laws to hinder our advancement?" Such men did not care one fig for the health or comfort of the poor operatives; they had very little patriotism, but government gave them a lesson, and now they dare not overwork their white slaves. Better far that a man be a shade poorer in purse than lose all that is dear to him. Better far that we should be even somewhat *poorer* (but that is highly questionable) as a nation, than that we should sacrifice all our virtue and happiness at the cruel shrine of mammon. And here let us take exception to that philosophy which would direct all our ideas towards the acquisition of wealth, either in families or *nations*, even though that should be done honestly. This philosophy



is now exploded, at least in the higher schools; and we hope the time is not far distant when the new and enlarged ideas of modern economists will be widely disseminated among all classes of our population, and man will be judged more by the moral and intellectual standard, and less by his *gold-producing* capabilities, than has hitherto been over-much the case.

As a nation, we cannot lose by our attention to morality, health, and true happiness. Indeed, it will be *all gain* and no loss. It would be folly, however, to say that individuals will not *suffer*. Suffer, did we say? Nothing of the kind. Rob Roy might equally say he "suffered" when the cattle he "lifted" were forcibly taken back by their real owner. When Napoleon plundered most of the capitals and towns of Europe of their valuables, he might as justly say that Paris "suffered" when the allied armies sent them to their proper places. Should every man that possesses a few acres of land be declared eligible to shoot deer in every forest, hares in every field, pheasants in every wood, many croakers would cry "socialism," and say, we are plundered; others would say that the game-laws were only put on the same footing as they were in 1790. Should we have influence enough to obtain from government a law declaring that our flax should bring 10s. per ton more than any others, have we any right to cry "plunder," should a more enlightened government declare our commodities no better entitled to protection than those of other people exactly in the same circumstances?

If it be the duty of government to be jealous of every thing that injures the person of the subjects, what will posterity think of those legislators who pass laws the unquestionable tendency of which is to sweep the industrious inhabitants from our healthy glens, and crowd them into our byelanes, into our pestiferous closes, already too densely populated, and who prostitute the fairest fields (which nature has bounteously bestowed for the production of food to man), solely to contribute to their brutal amusement? History, law, and common sense, alike declare that the game are free to all. That they

were so in Scotland at no very remote period, is certain. What right, therefore, had government to vote *gratuitously* away the *property* of the nation? Had game only a mere monetary value, and though it should be *gifted* away, it would not be a great loss to the nation; but the iniquity of the transaction lies in the disastrous effects it has upon the best interests of the peasantry. And in the districts with which we are best acquainted, we attribute the *swamping of this class*, in a great measure, to the operation of the four laws we are now considering. Instead of destroying such an excellent body of inhabitants as our Scottish peasantry, government might well be proud of such subjects; and had such laws been actively enforced since the Revolution, we are convinced Scotland would never have raised her head so high among the nations as she has. Moreover, should these four iniquitous laws only be continued in their *present* activity,\* we have no great anticipation of future glory to Scotland. Thirty years more of the same tyranny on the part of those who ought to have been our benefactors, would, we are convinced, have the effect of dragging Scotland down from its high position among the nations. What has she to boast of but the enterprise, industry, and morality of her people? Where are the fields, like those of England or other countries, that yield a liberal supply of agricultural wealth? All the mineral wealth she can boast of lies in a narrow strip along the banks of the Forth and the Clyde. She has no rivers intersecting her inland counties, which are naturally canals of themselves, yielding enormous wealth to England. Keeping out of view the minerals of the Forth and Clyde basins, and the agricultural wealth of the Carse of Gowrie and the Lothians, Scotland is a bleak, barren region, that only yields crops after the greatest perseverance. And a large area of her surface consists of hills and moors nearly valueless; so that Scotland never can boast of being a country abounding in

\* The corn-law rules must be excepted; but although their repeal has taken place, yet it will be long ere their evil effects die away.

wealth, or at least in gold. But she has had better far; she has had, if she may not yet have, a peasantry which, for morality, have never been surpassed among the nations of the world. The cottar's home, formerly Scotia's honour and pride, will, ere long, be only known to the readers of Robert Burns's poems. The new-fangled youth of the present day will have to read long discussions as to the department of natural history to which "the cottar" belonged; the cottar's house will only be known as a theme, a myth, which Robert Burns and Nicoll created to embody their fancies. Away with such melancholy thoughts! better days shall dawn upon Scotland yet. A few years more, if we can read the signs of the times, will show the *value* of our much-oppressed friends; and we hope some future Robert Burns will yet have to sing—

"From scenes like these old *Scotia's* grandeur springs,  
That makes her loved at home, revered abroad."

In America—in Canada—in Australia—many are the tales of the "auld cottar toon," told with honest pride; and they will be told to generations yet unborn. But better far than this, the lessons of piety taught in the cottar's house of the olden time will diffuse themselves far and wide, and yet it may be said—

"The sire turns o'er, with patriarchal grace,  
The big ha' Bible, ance his father's pride."

Or, as Robert Nicoll has it,—

"Chief of the household gods  
Which hallow Scotland's lowly cottage homes!"

We could say a great deal in favour of *not* pulling down our cottar-homes—of *not* banishing the worth that finds a home there—of *not* drying up the fountains of Scottish grandeur, which, according to Burns, "*spring*" there. Let us turn for a little to the other side of the picture, and lay it down as a maxim, that *overcrowding large towns is destructive to the morality and prosperity of the nation*. We imagine that few will deny the truth of a proposition so plain, as that in large towns the moral feelings are generally much more blunt

than in country districts. Vice walks in cities on the open streets—it sneaks ashamed in retired rural districts; and besides, its effects in country villages are not so disastrous, for in the case of breaches of the seventh commandment, it often happens that the seducer makes all the reparation in his power by marrying the female he has injured. And such a reparation is generally expected in the country; but we cannot say so much for the towns.\* There is a *contagion* in the city which does not operate in the country, at least to a tenth of the amount; there is a blunting of the moral feelings from constantly beholding improper scenes, which is never experienced in the country; and in towns the *means* of going astray, should vice predominate over virtue, are always at hand. Indeed, every thing in a town is *for*, while in the country every thing is *against*, immorality. We might adduce instances from both ancient and modern history in proof of these statements. No one will deny that the greatest empire of olden times—the Roman—was ruined by the country-people leaving their homes, and flocking into towns: no good soldiers could be raised to defend their country; and as they drew their supplies wholly from abroad, a blockade in their case was total starvation. A masterly argument on this subject may be found in Alison's Essays, † in the course of which the author remarks:—"The great source of demoralization and crime in the manufacturing districts arises from the sudden congregation of human beings in such fearful multitudes together, that all the usual alleviations of human suffering, or modes of providing for human indigence, entirely fail. We wonder at the rapid increase of crime in the manufacturing districts, forgetting that a squalid mass of two or three hundred thousand human beings are constantly precipitated to the bottom of society in a few counties, in such circumstances of

\* Alison remarks, that next to the Bible the good opinion of others is the greatest check to immorality. In the country this exercises a powerful influence, while in the town its salutary check upon vice is unknown.

† Vol. i. pp. 362-369.

destitution, that recklessness and crime arise *naturally*, it may be almost said *unavoidably*, amongst them."

Such is the language in which Sir Archibald Alison describes the origin of the complicated evils which accrue from an overcrowded population; and ample corroboration, if needed, could be found in other writers. Sir Archibald blames free-trade for these evils—we blame the protection to land which has been the policy of *his* party for the last fifty or sixty years. He blames the liberals for all these evils—we blame the aristocratical party, as having caused them by that very policy of which he is such an able defender. As this branch will necessarily fall under discussion in another chapter, we refrain from further remarks at present; but we shall there endeavour not only to show the *causes* of these enormous evils, but also their daily operation even at the present moment.

PRODUCTION.—This is a subject with which the public generally are but too well acquainted. The doctrines of some old schools attaching an exaggerated importance to production have perverted the *ideas* of all, as if to acquire wealth should be the highest aim either of individuals or nations. The component parts of production are capital and labour, according to Mill. He does not include "property" under this great division, but ranges it under the second, viz., distribution. The gross amount of *value* realised annually in a nation may be said to be the amount of *production*, such, as wheat, cattle, manufactures, ships, game, &c. It does not matter at present who manages to *pillage* the common fund of most of the stock, which in this view is the property of the nation. Thus you say the nation has prospered by good harvests, while in one sense it is only certain individuals; you likewise say, our country has double the number of ships it had a century ago, while the great part of these belong to shipowners and a few to government. A proper view of "production" would show us the best ways of accumulating the common stock as a nation, and as individuals.

It is degrading to human nature to say that man is only a

mere producing machine. That whole multitudes should be looked upon only as contributors to the common stock—that our ploughmen should be regarded merely as machines out of which a certain amount of work may be forced, just as you would talk of the horse-power of a steam-engine, is lamentable. By our new-fangled “improvers,” labourers are not esteemed as brethren, or made of the same clay. The aristocracy and some poor Scotch lairds consider no one else as “blood” but themselves—no one who cannot tell of some progenitor who owned an auld Scottish kail-yard; and as they look down upon farmers, so farmers in turn treat ploughmen, we regret to say, no better than they do inferior animals. But—

“It’s coming yet, for a’ that,  
That man to man the world o’er,  
Shall brothers be for a’ that.”—*Burns*.

The time is not far distant, we believe, when workmen of all classes—particularly our industrious, hard-wrought, ill-lodged, and worse-fed farm-servants—will receive that degree of consideration to which their valuable services so well entitle them. We would like to see the feeling again prevailing that pervaded all classes before the artificial and unnatural “improvements” of modern times were invented. Meeting a young country lad on a road the other day, I made several inquiries relative to his prospects. “I suppose,” said I, “that farmers are very careful about their servants—see to their health, morality, &c.?” “Deed no,” he replied, “they dinna care a preen-head about them if they just get the work ca’ad out o’ them.” Those that can remember the good old days of Scotland could tell another tale.


**DISTRIBUTION.**—This subject calls for much more attention, and its regulations are of much greater moment than those of production. “Any body,” says the old proverb, “can make money;” the application of it to proper purposes requires the matured wisdom of old age. The great problem of human improvement, in a physical point of view, lies hidden here.

Looking prospectively at the destinies of our race, we cannot contemplate the present hindrances to the comfort of the masses as enduring.

The master's comforts have been increased by dint of many improvements; and shall the servant's not improve in a proportionate ratio? Men may be blinded by the wide difference which obtains among the different classes of society in our day, in point of economical comfort and enjoyment, but this state of things will not always last. We cannot believe that incessant labour is necessarily the enduring state of human life. We believe that the sweat of the brow is necessary to procure the means of support; but we can with prophetic eye behold the time when men shall not be *always* ploughing, and others reaping—building, and others inhabiting. Though the reader may smile at such a wish, yet we are not ashamed to own that we would like to see our farm-servants enjoying, after their hard work, a time of leisure and retirement to read, not only newspapers, but works of science. Improvements in farming there are many; and although we invoke censure, we believe they are only a pledge of what is coming;—shall *all* these benefits go to the higher classes as they do at present? Instead of ameliorating the condition of our ploughmen and farm-labourers, all the great and boasted improvements in agriculture have only tended to *drag down* that most important class. A respected friend observed to us lately: "I cannot deny it," said he, adverting to the fashions of his younger days, "the more improvements, the worse for the people," alluding to those of the country districts. This is unjust distribution.

The productive energies of our country having accumulated a common fund, we now ask, How is it to be divided? Economists seem to agree that it belongs to three great classes:—  
1. The workmen for labour; 2. The farmers for superintendence and remuneration for capital; 3. The landowner as rent.

Dr Chalmers has shown most satisfactorily in his Political Economy that the labourers have to be paid *first*, before any



thing can be given to the other two classes. As soon as the work is ended the wages are due, and fall to be paid long ere the farmer realises anything for himself or his landowner. Of this class Dr Adam Smith says:—"The interest of this order is as strictly connected with the interest of society as that of landlords." If such be the case, we shall take the liberty of inquiring whether or not they have obtained the "protection" they better deserve than others; or whether those who contribute little or nothing to the wealth or comfort of the world, have not been "protected" at the labourer's expense?

There is a bastard philanthropy gone abroad of late years that takes "the good of the people" for its cry. Only let it be for "the good of the people," and the hoax will take, however ridiculous. Sabbath-trains must run, only for the people that they may behold the works of nature. Let two Dukes shut up a national thoroughfare, and a certain monthly periodical will undertake to prove that it is for the good of the poor! Truly the poor should watch their "friends." Amidst all that is consecrated at this altar, we hear little of any thing being done to alleviate their physical depression. We little know what the working people have to suffer when "death comes rappin' at their door." The father is often snatched away, leaving a helpless widow with a "sma'" family—what a calamity! There is an element in her sufferings to which the upper classes are strangers, however great their trials may be, and that element is *hunger*. Many is the tale we could tell of industrious people struggling hard against the evils of their lot, yet by dint of the greatest thrift rearing up a numerous family, giving them a decent share of education, and laying the foundations of prosperity in after life. Reader beware! take good heed that you are not adding another weight to such a heavy load; take care that under the cloak of "protection," you are not entering the humble dwellings of the poor, and pilfering therefrom a share of their hard-won, honest-earned bread. We can have no sympathy with you if you do. Whether you be duke or earl, farmer or laird, we must brand you as



coward and a robber. We know that many fight under the banner of protection, really believing that it is good for the country—for the poor! We shall endeavour to enlighten such. But we also know that there are some who care not though their workmen should starve—though they should lie in sheds—though their families should grow up in crime and ignorance, provided only they get their coffers filled. Rather let us feed on the meanest fare than harbour such wolf-like passions.

We could willingly extend our remarks on “distribution” in its *general* operation. But as we have to meet the details in that part relative to corn-laws, let us wind up by quoting a few lines from Dr Brown’s *Philosophy of the Human Mind*. “When we consider the multitude who are in possession of means of enjoyment, that are to them the means only of selfish avarice or profligate waste—in both cases, perhaps rather productive of evil than of good to the individual possessor; and when, at the same time, we consider the multitudes, far more numerous, to whom a small share of that seemingly unprofitable wealth would, in an instant, diffuse a comfort that would make the heart of the indigent gay in his miserable hovel, and be like a beam of health itself to that pale cheek which is slowly wasting on its wretched bed of straw, in cold and darkness, and a famine that is scarcely felt, only because its appetite is quenched by disease,—we could almost wish to say, ‘Let there be no restraint of property, but let all the means of provision for the wants of mankind be distributed according to the more or less imperious necessity of those wants which all partake.’ Let us, at least, be jealous that no parliamentary enactments foster such a wretched state of things, directly or indirectly.”

HOW ONE MAN IS BETTER THAN ANOTHER, AND HOW ALL MEN ARE ALIKE.—We often meet with people who argue exclusively for the aristocracy. Will *they* allow such things? It is all very good to abolish the game-law rules, but will *they* ever allow it? Even Erskine, the great lawyer, argues about such

things when he speaks of them as "what our rulers had so much at heart." What an idea! as if rulers were only acting in their representative capacity to suit themselves! as if they were *better* than their brethren! As there is very considerable misapprehension on this subject finding its way, especially among the better class of people, those who are cool and opposed to any changes—good in themselves they may be, but fearful as to their effects, as if forsooth evil could be reaped from a sowing of good—let us examine this doctrine for a little on their account. In one sense, *none are alike*. We find this in all classes of objects: stars differ in glory; difference in rank is found among angels; it is found among worlds; it is found among all animals and creeping things; and it is also found in the various conditions of men. Such has been the case, and such in the order of things will be, we are told, even in heaven. Servants and masters there have been, and masters and servants there will be until the end of time,—

"And if not equal all, yet free,  
Equally free; for orders and degrees  
Jar not with liberty, but well consist."—*Milton*.

Whatever tends to break this inequality, is contrary to nature; whatever system pretends to make all men alike, is vicious and unsound; moreover it cannot succeed, but it will soon show itself in its own colours. Further, whatever tends to make this *inequality* greater, is just as much contrary to the nature of things. We have said there will be *servants*—we have not yet found who the servants are to be; there are masters—we have not yet found who the masters ought to be. There is no excuse here for making the servant *less*, at the expense of the *greater* or master. In fact, there is no *action* in this—it is simply an *observation* of the laws of nature. In former times, the sword made one man a master, and the weaker a slave,—we recognise no such power. Gold at present is looked upon as the great test, indeed the only test; and in this there is perhaps an error. We complain that the enactments relative to certain classes in our country have the

tendency to make some, who are *great* already, to be yet greater; and, of course, as they make some greater, they must *abstract* from many, there being no inexhaustible fund of produce to supply such draughts. If, by any legislative interference, you put the masters *up*, in a proportionate degree do you put the servants *down*.

ALL ARE ALIKE;\* that is, in their perfect rights and in the *eye of law*. Denunciations are pronounced against those who pervert the course of judgment. "Thou shalt not respect the person of the poor, nor honour the person of the mighty, but in righteousness shalt thou judge thy neighbour." It is the boast of the English tribunals that the peer and the peasant share the same justice; the prince and the beggar are equally amenable to the laws of our country. Under the feudal system, the life of the baron was estimated as worth many of his followers. But under any enlightened legislature, laws will not be framed to aggrandise the rich at the expense of the poorer classes, neither can enactments be passed to make up the poor at the expense of the rich. In the eye of the Roman law, every citizen was entitled to equal privileges; and any law that interferes with this is contrary to nature. *Merit should be the only test*. If you put a man into any situation (for instance, that of bank cashier) solely and only because his father did well there, what can be expected from such a choice? If individuals are elected to high situations because they belong to a *certain class*, you are perverting the natural course of things,—you are ignoring *merit*, and perhaps exalting *stupidity*, as is often done. In fine, Europe for many centuries has been acting upon the idea that the aristocracy, great families, and great estates, are the first in importance to be considered, and that all else are subsidiary; and what has been the result? Let history tell:—kings murdered; people butchered; and the

\* In the state of nature, indeed, all men are born equal; but they cannot continue long in this equality. Society makes them lose it, and they recover it only by means of the laws.—*Montesquieu's Spirit of Laws*, book viii. chap. 3.

civilization of our race often arrested, at least for a time. In the great Western Republic, all men are in the eye of law alike; this is not by any means inconsistent with titles of nobility; and that nation has accomplished more in fifty years than other nations acting upon opposite maxims have accomplished in a thousand. Compare Russia and its crowds crouching at the feet of a haughty autocrat, and then look at America! Look at science in the one, and look at it in the other!

At the first institution of society, every man has to work for himself; one man is strong and brings in twenty quarters of grain at the end of a year, while the weak may only produce five; of labourers in a field one man works for 2s. per day, another works for 1s. The man who produced the fifteen quarters extra is to that extent wealthier than his weaker neighbour; he is naturally entitled to more consideration, but we deny his power, or at least his right, to make *law-rules* by which his extra produce is rendered more valuable than that of the man who has only five quarters. In fine, we deny that an oligarchy, because they are strong, have the power (ill-gotten it may be) to make enactments, by which their twenty quarters are rendered more valuable; by which they appropriate to themselves privileges belonging alike to rich and poor;\* by which their resources are made more secure than those of people who have wrought harder for them;† by which *their* properties are firmly entailed to their families, although many should want the necessaries of life thereby.‡ We shall ever maintain, that in the view of parliament all classes should be alike, and none more favourably looked upon than another, and that "all men have equal right to their rights;" so that if the aristocracy wish to maintain the high position of their order, it must just be done in the same way as a labourer keeps his place in his humble sphere. If they wish to see their families rise to high honours, they must educate

\* Such as shooting untamed fowls and other game.

† See the law-rules of hypothec.

‡ Reference is here made to the law-rules of entail.

them accordingly. If they wish that their ancestral domains should be held by their own descendants, and not occupied by the stranger, let them train up their families to frugality, and let them not trust to the barbarous system of entails; that system enables them to be kept up no doubt, but it is done to the damage of our nation. Liberty consists in a man having a fair field without favour. It consists not in one man starting in the race for greatness with particular advantages (so far as legislation is concerned) over his neighbour, and at his expense.

Let us cultivate reason—a crop that cannot fail, that never yields blank returns. This is perhaps the most valuable product capable of being reared upon earth. It is the grand ruling power in the soul of man, all others being subsidiary to it,—

“ But know, that in the soul  
Are many lesser faculties, that serve  
Reason as chief.”—*Milton*.

Let nothing interfere that tends to blunt the fine edge of this mighty weapon, because on its keenness much good depends. Sell reason to no one at *any* price. Allow no power to control its operations on any excuse whatever. It is the grand touchstone by which we may try our actions, whether individual or social. It is placed by the Creator in man as the great compass by which he may steer his course through the ocean of life. Let us watch carefully against any who would deprive us of reason's radiant light.

Many people are very timorous about *consequences*. Instead of asking which is the right way to a given place, they are incessantly asking what will be the consequence of this—what will society say? and we find no small number who are always crying out that “society will do this and that;” and “you must act as you get people to do with.” Instead of getting society squared up to what it ought to be, such people would degrade all science, they would attempt to bend all fundamental principles to their low and crooked standard. But instead of acting thus, if we wish to improve ourselves,

if we have any wish to improve the world around us, let us preach what is right, or righteousness; let us fear no consequences; these are fruits that must be reaped according to the seed we have sown, whether that be good or ill.

On the proper exercise of reason depends the true prosperity of life. It is a rare plant, and it deserves the most careful attention, both for our own advantage, and that our example may serve as a stimulus to others.

It is of the greatest importance that we have a scrupulous regard to *justice*, not only in our private transactions, but also in our public conduct. This is all the more necessary, as little, very little regard is paid to this great moral principle. Parties seldom if ever argue whether a measure is just or not to the parties interested. It is enough with them to say, "We have the power, and we decree it this way." But as long as such principles govern the world, settled peace may never be expected. We often think that the Peace Society would make much more progress were it to bend its efforts against the *cause* rather than the effect. War is a mere effect consequent upon the violation of the sacred principle of justice. Arbitration is set forth as the grand substitute for war, but this of itself presupposes some difference between nations; whereas if they would only act justly one to another, there would be little danger of war. But we may be told that men will never do this until they become Christians. It does not, however, militate against Christianity to trace evils to their real source. We will never succeed in making men Christians by preaching to them a false philosophy. War, like all other evils, is well said by the Apostle James to come from "the lusts that war in our members."

ETHICS.—In reasoning on the subjects under consideration, let us ask only what is *right*; because, if it be not so, no good can ensue. It was a false doctrine the ancient philosophers taught, "Do evil that good may come." It involves in itself an absurdity, because no good can come out of evil. The Jesuits say, "The end justifies the means," as if a *good* object

could be secured by acting wrongfully. The great blunder of many well-wishing benevolent people in our times is, basing their schemes upon what *is*, instead of what *ought to be*. Read, we beg of you, Locke's Essay on the Conduct of the Understanding; especially that subdivision or paragraph termed "Bottoming." What mason attempts to build a house without first seeing that the *foundations* are established? We wish so much could be said for many people who attempt to reason irrespective of *foundations* altogether. Trace every argument to its very root, if you wish to obtain a proper view of it—where does it "bottom?"

NATURAL LAW.—It may be well to point out the difference between natural\* and *special*† laws. The former are uncreated and indestructible—the latter have been made and can be rescinded as may be thought expedient. The former exist of themselves—the *latter should be in accordance with them*, at least they should never be antagonistic. To illustrate better what is meant, two examples are offered:—

Murder is a great crime:

Therefore it ought to be punished.

Any one can understand this; justice demands reparation for the injury done. Perhaps there is none so ignorant as not to see the force of this. Take another example:—

That piece of timber belongs to you,

Such and such a man has stolen it:

Therefore he ought to be punished.

Take a hundred people, and perhaps not one among the whole would dissent from these conclusions. Look at a special law again. It ordains that you shall manufacture no spirits except such as government chooses to authorise. This is not self-evident, because you ask what right has government to interfere with your private property? it does not offend them, and they have no business with it; can you not eat or drink your barley as you choose? This is generally the feeling such a law engenders. Now, we could point out a

\* Common law carries out its provisions.

† Or statute law.

most respectable district of country, where the man that steals a horse or a piece of timber is held as disgraced ; whereas the man who smuggles whisky is thought well of, and the man who "informs" against him is shunned. We have seen even an extensive licensed distiller take the part of the one who was unduly opposing him. Further, we could find men with whom we could safely intrust our all uncounted, and whom we could not trust with a boll or two of barley ;—so much for the natural law that pervades every human heart. Unquestionably special laws are binding, but they do not carry with them the self-evident conviction that natural laws do. They would have to be stated thus :—

Government being necessary for the protection of society,  
certain expenses are necessarily incurred : and

Government having to raise these funds, has taxed such  
and such a commodity.

It would of itself be no inconsiderable triumph to our favourite science, if the nomenclature were specific—if our natural laws could be spoken of in separate terms—if the word "law," could be only understood in reference to natural law, while special laws could be designated as such, or as "law-rules." Thus the "excise-laws" should be designated as special laws, or "law-rules." Law at present is often understood as that pettifogging commodity that can be obtained only in a sheriff-court.

One word about our present performance. It will be observed that there is no great show of figures ; no extensive tables illustrating the "progress of the nation." These are purposely omitted, because we see no argument that can be deduced from many of the tabular statistics often produced in the question of corn measures. This branch of the subject has received justice from much abler pens than ours. Further, although we are by no means afraid of a war of figures, we prefer the mode now adopted for another reason, viz., that the reader may be as much as possible kept *in view of fundamental* PRINCIPLES, and may argue the different points



in relation thereto. Thus you will hear long discussions about trade. One party alleges that it has fallen off ever since the abolition of the corn-laws; the difficulty lies in tracing the deficiency back to its real cause; but it will not do to reason thus: "The country improved under protection;" or, "It has been unprosperous since trade has been made free." Evidence is wanting to show that it was *because* of protection the country prospered; and that the other elements at work, such as industry, capital, and enterprise, could not have had as good effects, if not better, had there been no protection. It is strange to hear people saying, that such and such things only have improved the country. Some years ago, many would have us believe that it was the small-note system that improved Scotland so much; that before its introduction it was heath and moor, but that under its favouring influence smiling fields had taken the place of mud and waste. It would appear as if with the small-note system people could dispense with the use of industry and perseverance, which generally improve land, and could trust to fine-sounding theories to accomplish that object. It may be that since the repeal of the corn-duties, trade and manufactures have fallen off, but evidence is wanting to show that such results are the effects of that cause; in other words, there is no *reasoning* in such statements. A hundred other occurrences may have taken place to account for the loss (if such there be),—such as the undue extension of railways deranging the monetary system; the great deficiency caused by the potato blight, and which, but for free-trade, might have been attended with greatly more disastrous consequences. Instead of amusing ourselves among the branches, we have commenced at the *root*; instead of commencing our discussion at the *end*, we have traced it from the *beginning*; instead of trifling with mere results, we have tried to show the causes first, the results next; so that, by first finding the lake, and tracing the stream from it, we have something like a certainty of the quarter whence the evils have originated.

## CHAPTER I.

### LAND AND PROTECTION.

#### SECTION I.—ORIGIN OF PROPERTY IN LAND.

"THROUGH faith," says the Apostle Paul, "we understand that the worlds were framed by the word of God." "The heaven and the heaven of heavens is the Lord's." "The earth," says the Psalmist, "is the Lord's, and the fulness thereof." He, being the sole proprietor, has granted it to man,\* along with all that it contains. "And God blessed them (Adam and Eve), and said, Be fruitful, and multiply, and replenish the earth, and subdue it." Subsequently the same grant was made to Noah and his *sons*. "In the beginning of the world"—says Sir William Blackstone, in his *Commentaries on the Laws of England*—"we are informed by Holy Writ, the all-bountiful Creator gave to man dominion over all the earth, and over the fish of the sea, and over the fowl of the air, and every living thing that moveth upon the face of the earth. This is the true and solid foundation of man's dominion over external things. . . . The earth, therefore, and all things therein, are the general property of all mankind, exclusive of other beings, from the immediate gift of the Creator."

The important truth is plainly deducible from the Bible, and is strikingly illustrated in the parable of the talents, that man is responsible to the great Owner for the use he makes of this gift. He has given it for the use of man, and not for his abuse; He has given it to sustain him, not to minister to

\* "The earth hath He given to the children of men."—(Ps. cxv. 16.)

his depraved appetites ; He has given it that he may live upon its fruits, and be able to worship his bountiful Creator ; He has not given it to one man exclusively, so that others may not have a footbreadth thereon to pay homage to His great name. "The Lord visits the earth, watering it ;" and shall puny man, whose breath is in his nostrils, only be found to spread evils where the great Maker of all spreads blessings ? Great as the work of creation was, the souls of men we believe to be in His sight more valuable than all ; and no right of property can interfere with the worship of the Creator.\* Adam and Eve were commanded, as progenitors of the human family, to "subdue" the earth ; and shall man venture arrogantly to disobey this high command ? Further, shall he *lay waste* what has already been subdued, to minister to any improper passion ? When the earth was given to man, it was given, not to be the means of tyrannising over his fellow-man—not to be the means in the hands of the strong of trampling upon the weak. When Nineveh was to be destroyed, we are told there were so many inhabitants and "much cattle." This has been quoted as showing the value our Creator attached to these animals ; but who will say that their interests were to be studied at the expense of men ? It is a fundamental law that nothing earthly is superior to man. He has got the dominion over the creatures—not *the creatures over him*.† Man is the vicegerent of heaven, but not one man more than another. Difference of rank among men has no effect here. Each man is a *superior*, each holds his *feu*-charter direct, and each man is responsible directly to his Creator, and that without the intervention of any mortal creature like himself. This should be particularly noted with respect to the *mind*. The interests of *man* must in all cases be studied *first*—those of *property* and *things* are secondary and subsidiary to these.

\* Allusion is here made to the absurd claim put forth by some private proprietors in regard to refusal of sites for churches.

† We refer to "game," which receives "protection" at the expense of population.


Along with the gift of the earth to man, to him was assigned "dominion over the creatures." Was not this for the purpose of ministering to his reasonable wants, rather than for pandering to his low and grovelling amusements? Is man, instead of producing food for himself, and relieving the wants of the poor and the needy, to squander the bounties of nature, in order that, by so doing, animals may be reared and fed to afford him the cruel and irrational entertainment of murdering them? "For every beast of the forest is mine," saith the Lord, "and the cattle upon a thousand hills;" and, instead of destroying wantonly the brute creation, we ought to take pleasure in making their brief irrational existence as comfortable as circumstances will admit. "This is a virtue," says Dr Chalmers, "which oversteps, as it were, the limits of a species, and which in this instance prompts a descending movement, on our part, of righteousness and mercy towards those who have an inferior place to ourselves in the scale of creation. The lesson of this day is not the circulation of benevolence within the limits of one species; it is the transmission of it from one species to another. The first is but the charity of a world; the second is the charity of a universe. Had there been no such charity, no descending current of love and of liberality from species to species, what, I ask, should have become of ourselves? Whence have we learned this attitude of lofty unconcern about the creatures who are beneath us? . . . Is it with man that this goodly provision is to terminate?"

Although we have quoted Scripture in defence of our opinions, it is not because evidence was lacking from every other quarter. We believe that nature and common sense teach the same doctrine. We believe that science, in the highest acceptance of that term, could show the identical lessons which are so clearly laid down in Holy Writ.

OF PROPERTY IN LAND—NATIONAL AND INDIVIDUAL.—Let us glance at how nations stand affected to this question. At first, as the world became peopled, and as the inhabitants

began to crowd together in one place, the outer edge of the population, if we may so speak, would be gradually forced to seek out new fields; and these fields in turn being again overpeopled, new countries had to be sought. Just in the same manner do the American pioneers press their way inward into the primeval forests. This right to property is termed that of "Discovery." When any island is discovered, it is taken possession of by the subject in name of his government, whose property the law of nations holds it to be. Thus, when any British subject falls in with a remote island—say in the South Seas—he takes possession of it in name of Victoria, Queen of Great Britain and Ireland.

There is another right acknowledged among men, viz., that of conquest—which is certainly, to say the least of it, a very questionable one. What *right* we have to India can scarcely be told. It is no excuse for you, having taken a man's property from him, to allege that he and you had quarrelled, and you happened to be the stronger. The right of Great Britain to the possession of land in New Zealand is good, it having been fairly sold to us by the natives. So is also the claim of the United States to much of their land, an equivalent having been given for it to the aboriginal Indians. Russia's right to Poland falls under that of conquest, as well as the right of Austria over Hungary. Bonaparte's Italian kingdom—his occupation also of Spain and Portugal, all come under this class. Such wholesale seizure of the lands of others seems to us an enlarged system of Rob-Royism, and equally unjustifiable. It is a triumph of brute force, and nothing more; and this vicious principle prevailing among nations, diffuses itself too rapidly among the individuals who compose these nations. It would be an excellent example to the people if governments would always appeal to what is right and reasonable, instead of virtually saying, "We have the power, and shall keep it." This would have an excellent effect in promoting true and sound principles, and sweeten the breath of society at large. It may be mentioned that the Spanish



right to South America partook of both the kinds of right we have adverted to. Dr Robertson's history is entitled, "Discovery and Conquest of America." The right of *discovery* only gave them a claim to the country in preference to the other European nations. We are told that when Columbus first landed with his crew, "They took possession of the country for the crown of Castile and Leon, with all the formalities which the Portuguese were accustomed to observe in acts of this kind in their new discoveries."

Possession of certain districts or subdivisions of the earth's surface having been acquired by separate tribes or families, let us now ask how the land thus acquired falls to be managed by the laws of these states, and for what purpose it is intended? On the continent of Europe, all land may be said to belong to certain individuals. Such, however, is not the case in Asia, where land is often common to all. In America, the aboriginal savages recognised no right of private property, nor, indeed, has such a right been ever acknowledged among uncivilised tribes or nations. Pastoral tribes have always acted upon the principle that land was common to all. The Arabs, for example, roam about with their flocks and herds to suit their own convenience. Such was the case with Abraham and Lot. They "chose" the land. The only right recognised was perhaps the right of wells, where labour expended gave a certain right to the owner. It may be worthy of remark, that there was no rent or rentage here. No one had to be consulted before alighting upon a rich piece of pasture, and, of course, no right existing, no rent had to be paid.

It seems now proper to make reference to the institution of "Government." This association is formed for the purpose of affording security to the people. In all cases it is so; or, if not so, it ought to be. No doubt, it has often been prostituted to the mere promotion of family interest, as was too long the case in Scotland. This, however, was contrary to the spirit and original institution of all government, whether

ancient or modern, whether patriarchal or monarchical, democratic or oligarchical. The nature of the protection which it promised to persons and property was twofold. It was intended to shield from foreign invasion, or from robbers or plunderers at home. This could not be done gratuitously—certain expenses were unavoidable. Under the feudal regime, no money outlays were required, as war was seldom carried on in foreign countries. The first great call for money was to purchase supplies for the Crusaders, who could not carry provisions so far from home. Consequently money was needed to purchase supplies; and to this cause is generally ascribed the first but effectual blow which that great institution received. Whether in ancient or modern times, the great fund allotted for defraying of expenses was the *land*.

Formerly there were no standing armies, and the fighting men were supplied by the lands allotted for this purpose. Just exactly the same practice is followed in Russia to this hour. The expenses of the royal household were supplied from the property allotted to the king, as being the head captain. His share was greater than others, his expenses being greater. Thus Charles V. derived his splendid revenues from this source. There were no "taxes" in these piping times. Excessive taxation is peculiarly a device of modern governments. The only payment in the shape of rent, so far as we know, was service and "kain," which subsists in most leases still. On inquiry in the Highlands, this is the only trace we can get of actual rent in the olden time. All lands were held on account of "service," i.e., so many acres of land were liable to turn out so many men at the superior's call, and he in turn was bound to furnish so many to government from his retainers, and from his own estate. The chief held the lands from government on the same terms as his vassals held of him. How the captain became owner of his own share, and that of all his vassals, we really cannot tell. It is a little beyond our knowledge. We are told that the people formerly had the "liberty of the hill." Hence the

saying, "a fish out of the water, or a tree out of the hill,"—meaning that no theft is implied. We cannot understand what was meant by the "*liberty*" of the hill. Although no antiquarian, yet we strongly suspect this phrase is of modern manufacture. For as the hills and forests were general or common property, we cannot see where *bondage* could be there, and therefore no *liberty* could be granted to them. By what law, or by what justice, these common privileges were declared to be *private*, is above our skill to discover. There is only one way of accounting for it, viz., by the *members* of government using it for the benefit of themselves and friends at the expense of the nation. There is an old Scottish word which is very expressive: it is "spulzie." Sir John Sinclair investigated this subject; and some valuable remarks on it are to be found in the "Theory of Human Progression," lately published, also in the "Edinburgh Review" for July 1851.

The mode now adopted of disposing of the nation's land is by *sale*. The government gives certain farms for the purpose of cultivation; besides, it throws the shield of protection over them; spends so much on roads, surveys, &c., thus enabling the colonist to obtain the benefits of equitable law and civilization. In return for this, he pays so much money to the common fund, either in single payment or by an annual sum, for which the nation holds a hypothec over his lands. There is no *middleman* here—no great "landlord" to be supported. This might be termed the *land-tax*. It may be mentioned that until lately this was the tenure of our Indian possessions; but some wise men from the west have endeavoured to introduce the *great-landlord* way of it. How they have succeeded in carrying this feature of the feudal system into eastern climes, is well known. This is receding, instead of progressing, in civilised legislation.

The divine arrangement by which land was originally the property of all mankind, and destined for general use, is found to be most beneficial to the moral and physical welfare of society. It follows, that whatever interferes with man's be-



coming possessor, is contrary to nature. We acknowledge no man to have a *divine* right to land more than his neighbour. We persist, that to enable men to become sharers in the health and comfort the country air affords, every facility ought to be afforded them of becoming possessors, seeing that such a possession, however small, is most beneficial to the man himself, and useful to his country. In fine, it is the duty of government as much to see to this as to see to its "protection" from invasion, the one being as much connected with public welfare as the other. Therefore, as far as is consistent with due security to individual interests, the cheapest, most expeditious, and most convenient modes should be adopted of transferring property from hand to hand. Further, the feudal method being the most expensive, the least secure, and most troublesome, it ought to be eschewed; it is a remnant of barbarian times and manners, and cannot be adapted to the wants of a more enlightened and more civilised age. There is no call here for entering on the consideration of what particular method should be adopted. In America the registration method is adopted, which is there found to be cheap, useful, and secure. In saving of time, and of money, and in avoiding litigation, the American method is infinitely superior to the Scotch, as a property there can be transferred at probably one-twentieth of the expense of what it would cost in Scotland. As far as house property is concerned, this advantageous change would be very apparent. We have no doubt the expenses incurred in procuring "ground feus" from burgh and other superiors has fostered and encouraged that obnoxious plan of "flats," which an English friend of ours unwittingly designated "lofts." If we consider *how often* house property has to change hands from death, from trade, from bankruptcy, and many other causes, this is no slight hindrance to the *moral* and *physical* upraising of the masses.

OF HERITABLE AND MOVABLE PROPERTY.—Perhaps we have been misleading the reader, by dwelling so much upon landed property, without saying any thing of industrial pro-

perty. The distinction, no doubt, falls to be drawn more particularly afterwards, when we treat of the practice of hypothec. The results of labour or industry and natural produce, ought, in theory at least, to be distinguished, in order to obtain correct views of both. The natural produce of the earth may be stated as what grows without assistance, such as timber, grass, peat, and minerals before working. The fruits of industry may be stated as what is reared, transformed, and rendered useful to man. Thus, an acre of grass, in a natural state, is worth three shillings per acre; after it is fenced, trenched, watered, and top-dressed, it is worth one pound three shillings: thus the twenty shillings extra is the reward of industry. It is industry that has created so much valuable property in Scotland, which naturally is worth very little; the whole, or nearly the whole, value being the accumulation of industry. How, therefore, the natural value should be enhanced by act of Parliament, at the expense of industrial value, is more than we can explain. Why the one should be viewed with a more complacent eye by our legislators than the other, is unaccountable. How law-rules should apply to the one and not to the other, demands inquiry. In other words, we cannot see any essential difference in rights betwixt heritable and movable property, and although we hazard this opinion (which we reserve power to withdraw or alter, should further inquiry convince us of its unsoundness), yet we cannot discover any good resulting from such uncalled for distinctions; on the contrary, we believe they are productive of numerous evils. It is, however, if not indispensable, at all events an excellent appendage to our feudal system of tenures.

It is right that we should call every man by his right name. "There is much in a name," is what every body says, and, doubtless, there is much truth in the saying. Every man that has been born in Scotland claims a certain right to that country—to its laws—to its history—to its land and rivers; and when he goes abroad, he is not slack in "protecting" them

from insult. What is the name he is called by in this capacity? It is "Scotchman." Now, there are others who have a certain right to land—they draw revenues therefrom, although they were not born on it; aye, and although they never saw it. We have perused history, and find how they obtained such rights. We have closely examined their claim to extensive privileges on account of their right to the land. They arrogated to themselves, a few years ago, nearly the whole right of governing the country in consequence of this right to the land,—as if none could give an intelligent vote but they,—as if wisdom in such matters would die with them,—and as if a certain inheritance in the soil were enough to make up for all other requisites. In fine, we cannot see that any man's right to the land carries with it more than right to the *rents*. True, as a body, the owners of the rent have power to alter or improve the land as they see best; but suppose that a dozen of the great owners were to agree to sink their land in the sea, would such a proceeding be allowed? Suppose that the dozen were to agree to live a hunter's life, and could afford to live without rents, would the better-thinking part of the people allow whole districts to be swept of their inhabitants to make room for wolves and boars? Suppose the Emperor of Russia were to cause a great tract of land to be purchased, and make our peasantry give place to his serfs, would we tolerate such a use of the rights of property? We maintain, therefore, that no man is "*lord*" of the soil; that such a term conveys an extravagant idea totally inconsistent with the tenure of land; that he cannot do with it what he pleases; that his inclinations must not work against, but subserve the interests of the inhabitants. On these, and on many other grounds, we choose in this volume to designate owners of landed property by that term which best conveys the meaning, viz., RENTOWNERS, just as we speak of shareholders, shipowners, millowners. To be sure they might be called landowners; but this new term is used in contradistinction to that of "*landlord*."

**PROTECTION.**—This is a term signifying security, guard, defence, or shield. The use of this term presupposes danger of an attack, and in order to prevent harm, certain measures of *protection* are adopted. Were all our rivers fortified by batteries at their entrance—were all our towns beset with armies round about—were our mercantile marine turned into vessels of war to guard the coast, such extensive operations would argue that our rulers dreaded a foreign invasion. It is a strange kind of protection to banish our peasantry, from which the best supplies to our armies were drawn, for they are lambs in peace and lions in war. We wonder what sort of protection a hundred head of red-deer would afford in place of a Highland regiment.

When the weather is rainy, we put on waterproof coats; when it is cold, we put on flannels and over-coats; ladies in the hot days use parasols to *protect* their delicate faces from the sun. Country people, near burns, raise bank-dykes for protection to their houses and land against spates. We pay for policemen, buy locks, build gates, and keep Newfoundland dogs to protect ourselves and property against thieves and robbers; and there is a particular lock they call the "protector." In countries unsubdued to the dominion of man, fires are kindled as a security against wild beasts. Roman soldiers carried shields—as also did Highlanders—to protect their persons in battle. These shields were often made of brass, sometimes of wood covered with bull's-hide, having a large spike in the centre, whence brass nails radiate in many lines to the outer edge.

All animals are beautifully provided with protections against their enemies. Many of them have horns—some have prickly covers like the hedgehog—others save themselves by speed. The sepia animal has its bag, whence it emits matter to obscure the water, so that the enemy may not know where the prey is. Mr Hugh Miller thinks his *Pteryichthys* had two arms for the purposes of defence, and which it raised in times of danger.

Protection is *negative* rather than positive in its operation. It is a coat of mail that prevents mischief to the person, rather than an instrument to wound an enemy. Suppose Russia were to attempt invading England, our war ships would act for our defence; but were we to invade Russia, by what use of terms could such an act be called "protection?" Certain animals of prey are furnished with instruments for attacking their victims; how could such animals be called protectors? Protection is the *guard*, not the *thrust*, in fencing.

Protection *active*—properly speaking there is no such expression, it involves in itself a contradiction. If protecting our property means confiscating that of our neighbours—if our industry is "protected" by a friendly legislature at an expense more than its worth—then it loses entirely the name of protection, and a proper term would be "*plunder*." This age is remarkable for the fecundity of schemes, whose object is the protection of the people. Thus we have a "Trade Protection Circular," telling us to beware of swindlers and those who do not pay their bills in due time. In regard to the industrial classes, how many a scheme is devised for their protection!—unions, mechanics' institutions, friendly societies, &c. An ancient—Procrustes—attempted to make all men alike, by stretching out the limbs of some and lopping off those of others. But perhaps one of the most amusing instances of popular delusion has been a scheme for protecting the industry of our nation, by stealing a given number of loaves from the poor man's table, or what was the same, by making him pay one-third more for them. The farce was crowned by—what do you think? was it by sinking coal-pits, making water-tanks to supply the labourers? Oh, no! the benevolent people who propounded this beautiful scheme were to have the coveted loaves transferred to their own tables; all, strange to tell, for the good of the people! Such is "Protection to Native Industry!"

Having glanced at the theory of Rent, we shall now proceed to examine more particularly the *principle* of a Protective

Duty on Grain : also the effects that must necessarily flow from such an imposition ; but the history of our country for the last thirty years exhibits, unfortunately, too true a picture of the working out of this vicious principle.

It is the custom of a certain class to represent bread as being the all and in all of our political wellbeing ; and by doing so, they have certainly succeeded in making the public believe in a great many nostrums. Bread is, no doubt, an article of the first importance : it is food for the body ; but is there no food required for the mind ? It is well for a man not to be starved ; it is no less so for him to be sheltered from the pitiless storm ; he needs to have his body clothed as well as fed ; his children must have education, and be attended to in many other ways besides providing loaves for them. Again, *corn* is not the only thing with which people are fed. Tea is an article of great consumpt. People desire to have beef, cheese, milk, butter, and a great many more articles, which, although they do not form so large an item of man's food, and could be more easily wanted than bread, yet in a civilised state of society they are far from being inconsiderable in importance. Bread-stuffs, therefore, are only a part of what is suitable for man. Society left to itself will naturally find out the due proportions in which a man's income should be expended, how much upon bread, beef, and other eatables for the body ; how many books and newspapers for the mind ; how much for health and recreation ; how much for clothing, housing, and education,—*but why beat the air ?* It is only parties having some ulterior and sinister object to accomplish, that will attempt to interfere with the natural proportions of each of these items. The main point with them is to get the *rents raised*,—not that they care one straw whether there shall be food in the country or not ; taking them as a body (these advocates for the superior claims of bread), there is not in the country one class more unpatriotic. That they love *Scotland*, there cannot be a doubt ; but love to country does not consist in fondness for

the clay, stones, rocks, moors of which it is compounded, but in love to the *people* who inhabit it rather than the *things* contained in it.

Production is a very important division of political economy, and it is well worthy of attention, but it must never, for a moment, be placed superior to the people, and, indeed, it cannot (that is, ethically) be done. No doubt, ignorant or grasping governments, having selfish ends to attain, may pass and have passed laws securing high prices for certain commodities—corn, for instance; but we are prepared to show that *production* has been kept down instead of being improved thereby. Mr D'Israeli, on a late occasion, declared that the production was deficient, and, therefore, a fresh corn-bill was necessary. Granting that it is desirable to extend our PRODUCTION, let us ask if a reimposition of the corn-duties is the best method of securing that desideratum? Let us examine this principle of protection as regards two grand producing branches of industry, viz., TRADE and AGRICULTURE. By minutely examining these in connection with the principle of protection, we shall be enabled to discover whether certain agitators are really so anxious for "protection to native industry" as they pretend to be, or whether this is only a mere war-cry raised by a party for their own interests. Let us again draw attention to the fact, that it is the PRINCIPLE of protection which we wish thoroughly to sift; let us analyse it; let us subject it to the closest test; let us bring as much light to bear upon it as possible, so that we may judge whether or not it is a safe law by which we shall regulate our civil conduct. Let us have no mercy upon it, but expose it fearlessly, for we are not commanded to be merciful to principles, although we are told to exercise that virtue towards men and animals.

SECTION II.—THE PRINCIPLE OF RENT—THE PRINCIPLE OF A PROTECTING  
DUTY ON GRAIN.

Political science has often given rise to elaborate treatises, leading to discussions the most intricate. For instance, we are told all about capital and wages ; but to what purpose ? What lesson can be deduced therefrom that can be turned to any practical account ? We would now, however, bring the ascertained laws of science, in fact, their *phantasmagoria*, to bear upon our social condition, and we have no intention of entering into useless comparisons between old times and present ones ; but we would ask, how can society be improved, and what has hindered our onward march ? For us to engage in a discussion on the corn-laws would be something like presumption, considering the talent that has already been brought to bear upon that subject. But, nevertheless, there are views in connection with their effect upon the construction of society *generally* (as contradistinguished from their relationship to individuals), that have not been so much dwelt upon, and it is to those general results that we would now direct attention. It is very easy for any person to see that a heavy duty upon corn must have the direct effect of causing him to pay some pence more for each loaf. This is bad enough, it must be confessed ; but there are other lights in which such a corn-duty exercises a more disastrous effect, and that is, by deranging the whole condition of society. We know that great evils exist in Scotland ; we see our best population driven from their homes and forced to seek a shelter on some foreign strand, or compelled to take refuge in the wynds and alleys of large towns. The pernicious system of bothies also prevails to an alarming extent, and threatens to swamp all that is morally fair and bright in the rural population of our native land ; it has made frightful havoc upon morality and religion, on which more especially they were wont to shed their benignant influences, in the



landward parts of our country. Great evils prevailing in a country argue great disorders in the social constitution, and it seems no idle employment to note the disasters brought upon our social system by thirty years' protection.

But further, we find that a survey of our present institutions tells us, that although protection has been withdrawn from agriculture, it is still largely entering into other parts of the constitution of our country. And for the purpose of science generally, we can see no harm in subjecting this PRINCIPLE to a more general and severe test, inquiring whether it is one that we may safely hold by in future, or whether it should be eschewed as vicious, and therefore mischievous to the human family wherever operating.

In order to obtain a clear and distinct view of protection to the agricultural interests, it does appear indispensable for us to inquire a little into the theory of rents, seeing that one of the direct influences of a corn-duty is to raise their price in the market. It becomes us to ask whether this artificial and compulsory raising of rents is calculated to benefit society, or whether this forced increase does not act very injuriously upon its most fundamental and vital movements? That payment which a farmer makes to his laird, we shall denominate common rent; and economists have discovered that it is compounded of two distinct elements:—*1st*, The price of natural agents; \* and *2nd*, The return for capital invested in improvements. The natural agents are sold to speculators by government, either for money, as in New Zealand or in Canada, or feudally (as was the case in Britain) *for services* in defence of the country, and in lieu of which we now pay soldiers. The increment of natural rent is enjoyed by the speculator or rent-dealer; independently of any exertion on his part, it grows while he sleeps,† and it is

\* Thus the rent of a grazing farm, or of a waterfall, of minerals where the tenants make the necessary fittings, for the sake of convenience let us call the one Natural Rent, the other Improvement Rent.

† An old Scotch laird advised his son to plant the property with trees,

caused by industry. Society derives no benefit from the money so absorbed; but we cannot see how it is not fairly the property of the rent-dealer, if the original bargain with government be completed by him. Rentage is a most important principle in nature, and it ought not to be compulsorily depressed, but it accords with the interests of society that it should have free scope.\* As long as rent is allowed to operate, men need never be haunted with a morbid fear that the country or the world will be over-peopled, for it is a most wholesome check to our population; and we venture to say that if the holdings in the Western Isles had been open to a fair competition, industry would have pushed out and banished sloth, and thus kept the population within proper bounds.

The owners of natural rent consume produce which they do not work for, they are the drones of the hive; and the singular effect of any foreign interference with rent (such as that caused by a corn-duty and hypothec), is, that it raises that portion, while it acts as a damper upon industry. Such interference seizes the rewards of activity, and hands them over to the drones who eat up, not only their proper share, but likewise that part which should naturally go to renew the exhausted energies of production.† The interference of a corn-duty causes an unnatural rise upon natural rent, and thus acts as a premium to laziness instead of industry. It patronises a high price of the natural agent, which thus becomes scarcer for trade, and by consequence hinders its development. It virtually declares that the canvass, the oils,

adding, as a recommendation, "For mind, they are growin' while you are sleepin'."

\* Some fancy a proprietor deserves the name of patriot, who lets his land at something below the market value; he may be good to his tenants, but it is doubtful if he do not thereby keep down competition. Rents are often raised by "good lairds" not selling out their bankrupt tenants, by which the honest farmer cannot compete with a dishonest one. The farmer who trusts to a reduction of rent is the enemy of his own class.

† See "Use and Abuse," an excellent work by W. M'Combie.

and colours are far more worthy of patronage and payment, than the genius of the artist whose talent and industry thus bring living creations out of dead raw material. It will be clearly seen, that society has no interest in a forced rise in natural rent, seeing that it acts rather as a drag upon, than as a stimulus to, national industry. It is like the sand which the Egyptian husbandman throws upon his crop to keep it down, when it promises to be too rank from the overflow of the Nile; or, like the medicine which a physician administers to his patient when threatened with gout or apoplexy—very necessary evils, but far from being desirable for everyday use. Natural rents thus keep *down* the body politic rather than fatten it, and it is easily understood that such treatment generally used would soon make our social system thin and spare enough, and so it has fared with our own land. The leeches have got fat to repletion, while our industrious people in all professions and ranks have been proportionably bled. Too much blood-letting cannot be good for us nationally, any more than such a weakening practice can be to our individual persons. Provided that the natural rents of any country are able to pay the public burdens, society has nothing further to do with them, for they abstract not only their own share, but they leave nothing (or at least less) to remunerate the other division which we now come to, viz. :—

IMPROVEMENT RENT.—For the capital expended in draining, fencing, trenching, and manuring land, it is desirable that there should be a fair return to the landowner, for this simple reason, that these improvements produce food, and develop the resources of a nation. What the proprietor receives on this account is useful, because it holds out a premium to more extended improvements. Some economists teach, that *all* improvements in land are an actual benefit to a nation, but there is a great fallacy in such a doctrine, and we have seen in our practical experience much evil result from such a mistaken idea. Some too would argue, that it

were desirable that all such landed improvements were guaranteed a certain per centage for the money expended upon them, because the *production* is thereby increased. But are not railways, canals, and manufactories all increasers of production, and yet who ever heard of a guaranteed return from the nation for money laid out upon them? It is, no doubt, well for the country when such investments yield a fair return, and so is it well with the land when the farmer improves it; but no higher benefit accrues, else were he sure of a return for whatever cash he expended, he would become reckless, and thus the resources of our nation would be dissipated. If these doctrines be sound, they will teach us to view rents in their proper light, and to attach no more value to them than to any other speculation. It is certainly for the interest of society that the parties who own rents should be no more certain of returns from them, than the corn-dealer is for a grain investment. It militates strongly against our national progress when any other is the case, because it makes the holders of these agents to be careless about the public welfare, and it enables them to cut and carve upon trade as they choose. It would be much better for Scotland if rents were not so high in price, for that gives landowners by far too great a preponderance in the State, and invests them with privileges which they have not failed to abuse to their own advantage. Were their income from rents not so great, they would bestow a little more trouble upon improvements; they would not be so saucy to really respectable tenants, and undoubtedly vast tracts of land now lying waste would be improved so as to produce food to man.

Had time and space permitted, we should have been glad to have followed out these averments; but we trust enough has been said to show the effect of such interfering agents (as corn-duties and hypothee) upon the operations of rent; and we are warranted in concluding that such interference has the effect of narrowing trade by increasing the price of

natural agents; and also, that the fruits of industry are violently seized and paid over to aggrandise sloth. Thus the producer does not obtain that reward for his industry to which he is fairly entitled, and what is certainly strange, but no less true, agricultural improvements are hindered instead of advanced, as some protectionists would have us to believe.

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### SECTION III.—AGRICULTURE.

If not the most important interest in the kingdom, agriculture certainly is not the least; for if we consider the capital expended, and the number of people\* employed in it, we shall see that on its prosperity depends in a great measure that of the commonwealth at large. It is by no means unworthy the attention of government to develop the resources of the country by fair and judicious means. Thus the want of agricultural statistics being much felt by economists, government could most effectually cause these to be supplied; and doubtless, such a proceeding would tend to improve the farming interest generally. But as we have before noticed, it is not the improvement of agriculture that is so much desired. It is something else. For we see men who have never bestowed a thought upon getting public improvements carried on, who care nothing about the state of the country generally, who are more than ordinarily selfish, yet some of these men are the loudest in their demand for "protection."

If it were the real and true wish of government to develop the agricultural productions of our country, perhaps the best

\* We have seen some calculations estimating the numbers at a much higher amount than they really are—thus, so many farmers need so many blacksmiths, shoemakers, &c., &c. Now, it is evident that if the farmers had not consumers among these classes, they could not carry on. These people are consumers of the farmers' products as much as the farmers are of theirs.

means would be to offer a prize for an answer to the questions, "How can government best promote the farming interests, the improvement of waste lands, the improvement of stock and seeds of all kinds? Which are the most productive crops to be reared?" Suppose they should offer £1000 for the most approved essay, that would be a very small sum considering the large interests involved in the discussion. If we were allowed to compete for such a prize, our essay would embrace a few questions such as the following:—

Does the keeping up of myriads of game upon the corn and other crops, destroying three times what they devour, increase the gross products of agriculture?

Does the present practice of hypothec, which causes people to farm upon credit instead of capital, develop the agricultural resources?

Agricultural schools have been found most beneficial in other countries. Would they not be attended by like results if adopted in this country?

Manuring agents being in great request, could government do nothing to increase their supply, or to reduce the price? Could no more guano islands be discovered? Could chemistry do nothing towards showing what kinds of manure are best adapted for different crops, and different soils?

Flax was formerly an article of great value in this country. Its manufacture gave employment to a great many people in rural districts. The recent investigations have shown that it does not punish the soil if properly managed. This product having been violently pushed out by former governments, could nothing be done to bring it back to its former channels?

From the short tenure by which farmers hold their land, they cannot lay out capital on improvements. Further, on leaving their farms, they take care to leave as little sap in the land as they can. Could no scheme be devised by government, under judicious management, for allowing valuations for unexhausted improvements?

But it would seem that it is not the general increase of agricultural products which is wanted. "Native industry" is only necessary (according to some) for the growth of *corn*. All other articles may be thrown into the sea, provided only it is got right. But we are not afraid to follow it further; and for the sake of argument we shall allow it some of the extra importance which is claimed for it. Agricultural improvements being now put out of sight, we have only to inquire which is the best method of increasing the growth of corn in Britain?

Supposing that instead of holding out a premium for the rearing of corn crops, government put a prohibitory duty upon its growth. Say that such a duty amounted to 5s. per quarter, corn would still nevertheless be grown upon the best lands; that is, the land in question could be profitably farmed with white crops. Now, what use can there be in holding out a premium for growing corn upon such lands? Why, it would be grown in spite of you, even if you hindered its growth by a 5s. duty upon every quarter produced. Can anything possibly be more absurd? Suppose that the total amount of grain produced in this country is at present forty million quarters, but you wish to raise the production to sixty, it will only be necessary to hold out a premium for every quarter raised *above* the forty millions. Suppose that the bounty should be 20s. per quarter, then the difference between forty and sixty only falls to be paid, whereas by the operation of the corn-duties the premium would fall to be paid on *sixty millions*.

In order to render this still more palpable, we shall suppose that an invasion is likely to take place, and that sixty thousand soldiers are deemed necessary for the defence of our coasts. Our effective force only amounts to forty thousand, therefore twenty thousand have to be raised. Now, it is customary in such emergencies to offer a *bounty* for recruits, to induce them to come forward. We shall suppose the bounty to be £5 per head. The expense will therefore be

20,000 men at 100s., . . . . .	£100,000
But carrying out our beautiful system of protection the calculation would be 60,000 at 100s.,	£300,000
	<hr/>
Total loss from "protection" thus applied,	£200,000
	<hr/>

It will be evident to any man who is possessed of common sense that there was not *one man* more brought into the army on account of the bounty being advanced to the former army. They were formerly enlisted; their bargain was completed before the bounty was held out.

Adam Smith has shown the fallacy of such a course, so that it seems unnecessary for us to say anything farther. The downright absurdity of giving a bounty upon what would be raised equally well without one, must be apparent to all.

But we shall go a little further still, and suppose that the importation-duty levied upon foreign corn, so far from encouraging native-grown grain, *actually tends to repress it*.

We doubt not that at the very time when the duty was levied there would be a sensible increase in the breadth of grain sown. We doubt not that grain still occupies more of the land under cultivation, on account of the bad system it has certainly introduced. But if that bad system had not been introduced a greater competition would have taken place; the benumbing influence which has continued upon farming as a profession would have long ago disappeared; *there would have been more land cultivated*; there would have been more returns taken out of what was actually under crop, so that by this time there would have been really more grain brought into market by the one system than by the other. We are so convinced of the truth of these premises, that we might hazard our whole case upon them. We would, at least, be very safe in stating that if agriculture were not screwed down by the other three restrictions discussed in this volume, its gross products would be increased; further, that even more than the present yield of *corn* would be produced,



besides what the importation-duties have cost the consumer in extra price.

*Competition has been narrowed* by the prohibition of foreign importations. It is wonderful what inventions, what enterprise, what economy and carefulness, people will bring to bear upon their trade, when sharpened by a little competition. Old-fashioned and clumsy instruments will be laid aside for new and improved ones. Systems that did very well when prices were high, must give place before others of a more rational kind. "Necessity is the mother of invention," it is said, and it is true in this case; for farmers will see that unless they are a little more active and less bigoted as a class, the foreigner will push them out of the market. One man refuses to execute an order at such a price; but he is told that if he does not, another is ready to do it. Will this not stimulate him, will it not induce him to use the like facilities that his neighbour does? In our own experience, we know not of one field where the growth of grain has been discontinued in consequence of the abolition of the corn monopoly. Further, a marked improvement has taken place in farming since that time, and, if fairly tried, we will answer for it that farther improvements will yet take place, and that there will be soon a *greater produce* of grain than ever there was when the price was at the highest. It will be a strange thing if competition, which has wrought such wonders in every other case, should at last be found not only not harmless but vicious when applied to farming. From the superior advantages possessed by us in the shape of industry, science, and capital, we do not see what hinders our agriculturists from exporting their merchandise. As compared with manufactures, which have as many disadvantages to contend with, Britain should at least be self-supporting in agricultural produce. But it will be long ere the same amount of enterprise, science, activity, and business habits be brought to bear upon our agriculture that there is upon trade or manufactures. Certainly the last expedient that could be

devised to enable this country successfully to contend with other countries would be to shut the door of competition upon farming. Britain could once export corn, and that not long ago; nay, if it were absolutely necessary to her existence, an export bounty could still effect this.

By high prohibitory duties, landowners have had the prices of their own making. Economists have proved that the landowner is hostile to all improvements; for by the laws of supply and demand he will have the same amount in return for a small produce, as with a greater produce and a smaller price. Now, however, farmers and lairds will see it to be their interest to depend less upon *high prices*, and trust more to *greater returns*. It is for the interest of the country that they should be obliged to do so; but so long as they obtained the high price, they were, generally speaking, careless about a great production. It is true there were many exceptions, but the rule was certainly as now stated. A few years ago, the coal trade was a monopoly at Newcastle; and so well were the coalowners aware of the laws of supply and demand, that they fixed the nett output of each colliery at a given amount. They well knew that if each colliery were working as much as it could, *the price* would inevitably find its own level. It is only since the numerous contiguous railways have sprung up that this monopoly has been abolished. As long, therefore, as our landowners could keep up a monopoly and exclude others from competing, the *price* to them was a much greater object than the supply. Will any man attempt to prove that this "close" system encouraged production? Will any man who has ever heard anything of the Newcastle "venns," openly state that they brought *more coals* into the coal market of London, than would otherwise have been the case? Why, the very use of them was to *limit the supply and keep down the production*, and the lessees secured fortunes to themselves, while it enabled the owners of the monopoly to draw larger revenues by the high prices.

But we may be told that the high price given for corn

would act as a spur upon farmers to produce more in order to make rich. With a few it would, but in *general* it would not do so. The great bulk of farmers are very careless about riches. If they get their rents and current expenses paid they are easy, and care little for anything more. We are not finding fault with them on this account; but we complain of that system which removed competition from them, and which is undoubtedly a much stronger incentive to industry than the hope of becoming rich. Men are often careless about laying up money in the bank, but their exertions would be wonderfully quickened if they saw that such activity only would enable them to retain their farms and their residence in the country, as well as their means of livelihood.

Granting, therefore, that corn must be raised in greater proportions than it naturally would be, and that it is better for us to purchase flax and other products from foreigners than to buy corn, we have endeavoured to show that the import duty *raises the price*, but it ~~it~~ does not increase the supply of corn from our own land. And, besides, it is the most expensive process that could possibly be devised, and it is about the most useless for accomplishing the desired end.

Let us now look at the *economical* effect this arrangement has upon the operations of agriculture, and we may notice that these duties have entirely overturned *the theory* of good farming; in fact, they teach a bad *philosophy* altogether. The whole of our ideas and notions regarding it are essentially wrong. Farming, left to itself, would naturally seek out its proper channel, but the interruptions of legislators have disturbed the whole process. They thought they could improve upon nature's mode. How grievously they were mistaken!

Supposing that at present you were to offer a premium of ten pounds per ton upon home-grown flax, what would be the result? Why, farmers would immediately turn their attention to it. They would soon see that it was for their profit to cultivate this crop. The large returns which it

yielded would induce them to sow it upon fields intended for other crops. All the land possible would be put under it, *and thus all other crops would make room before it.* What was formerly considered a system of *good farming* would be spurned at now, and laid aside as old-fashioned, as very good for old times but not fit for this enlightened age. Now, it is quite evident that as far as you patronised flax with a premium, to a like extent would this premium act as a *dampener* upon all other crops. And such has, in fact, been the case with our growing of corn. In 1815, by the high price for corn, a considerable premium was held out to cultivate it, and insensibly all our notions of good farming have been veering towards growing of corn. Magazines and newspapers have led the way in encouraging this tendency, and those who profess to be judges have followed in the wake. Rentowners have been gradually infected with it, and the immediate consequence has been a desire to have all their estates put into *large divisions*. As far as the ground was leased in small holdings, to that extent was it regarded as obsolete and antiquated, and on the first break in the lease, active measures were adopted to have it put under the *new* and "*improved*" system. Small holdings were incessantly connected with the old Celtic or patriarchal system, which it has been the sincere wish of some philanthropists to abolish, without, however, substituting a better in its stead.

If you are at all disposed to doubt what has now been stated, and if you are open to conviction, try an example for yourself—such an illustration as that which we have given, the premium of ten pounds per ton on home-grown flax. In order to make it more perspicuous, try what effect a *five-pound* duty on foreign corn would have. You would see that *horse* work would be put more into requisition. You would be told that the large farm could be wrought at much less expense in proportion than the small one; and, therefore, that all small farms ought to be speedily amalgamated with large ones. To get a great length of furrow would be a desideratum; there-

fore fences would be taken out, and the parks enlarged. In fact, every thing that accelerated the produce of corn would be esteemed "good husbandry"—every thing that tended to raise other crops would be esteemed "bad;" therefore, *the whole system* of agriculture would be turned upside down. If we have been successful in attempting to show that the theory, the philosophy, of our agriculture has been bad, this point gained will enable us to get through this chapter much more comfortably.

*The import duties have the effect of unduly enlarging the size of farms.*—Under the last head we have hinted at this result; but, as this is one of the most important links in our chain of reasoning, particular attention is requested to it. The cultivation of flax cannot be carried on with the same capital and the same ease that grain can: more manual labour is necessary for growing it, cleaning out weeds, steeping, skutching, &c.; therefore, one man can cultivate a greater breadth of land with corn than he can do with lint. The peasantry of the Palatinate, East Friesland, and Holstein, could not grow the valuable productions they bring into the market were their farms put into divisions of 600 acres. The more valuable the kind of crop reared, the more contracted will be found to be its limits. Thus, a farmer could devote one-fourth of an acre to growing a particular kind of seed: from the attention required, and from the extra amount of capital necessary, he could not put a park of fifty acres under it. In country places any body can keep a public-house, for this reason, that it takes little trouble and little capital to keep a whisky measure and a bottle of mountain-dew; but if the tastes of our people were improved, and, instead of alcoholic liquors, nourishing articles of food were demanded, a better class of people would come forward to supply them—people who could lay out capital upon knives and forks, table-covers, cooking utensils, and who could keep a small stock of provisions: and, in the same manner, if our farmers were compelled to bestow more pains in cleaning and

working their lands, and in procuring manure, it is evident that they would require either a larger supply of capital, or to farm a smaller piece of ground. From the manner in which land was, until lately, cultivated, corn crops were like the present country public-house—less care and less capital would do—the high price given for grain covered every deficiency in loose farming. High-farming must now be the order of the day; and the inevitable consequence will be, that farms will become less in size, for it will not pay now for one man to take two farms while his capital is barely sufficient for one. The man who can farm one hundred acres well, can *beat out* the man who has a thousand: he can afford to *give more rent for it in proportion*. In one district with which I am acquainted, one-fourth of additional produce might be estimated as the increase of production since 1846. This is in consequence of extra attention bestowed, and the greater outlay for manure of all descriptions. If you inquire at a farmer why he throws his farm into larger divisions, he will tell you that he can work it at less expense the one way than the other. You will at once see that the whole *bent* of his efforts is towards rearing grain—by the high price being given for *bolls*. You will see that it is by them he expects to pay his rent; whereas his soil might be much better adapted for other kinds of husbandry—feeding sheep, for example. Take the illustration of a garden. If a gardener were offered a premium for growing a certain kind of wheat, he could *plough* an acre; whereas, in rearing vegetables, he keeps his garden in small divisions, and he finds *spade* husbandry more profitable. Now, for rearing this particular kind of wheat, he would find it most advantageous to have *larger divisions*; and thus he could afford to have a much greater breadth of land under his management.

To those unacquainted with the economy of a small farm, wonder may be excited at the various methods by which the industrious residents contrive to support themselves. They plod on with horses, doing a day's work for hire, weaving in

the winter season, rearing bees and selling the honey, growing fruit and carrying it to market. Now, a high premium being given for grain, one man could easily farm the ground from which one hundred people manage to extract a living and to pay good rents. Nothing can be clearer to us than that a five-pound duty upon foreign grain would have the immediate effect of placing a hundred such holdings under the management of one man. We know of many examples in point. The corn-duties encourage great holdings, and crush small ones. This is the grand tendency of import-duties *upon corn* as regards large and small holdings. There is one remark necessary to be made here, and that is concerning the *removing of the population* from the country districts; because, where the holdings of twelve families are thrown into one, eleven families must be destitute of houses and the means of obtaining subsistence. Looking at the enormous number of small arable farms that have emerged into greater ones in Scotland during the last forty years, we can trace the evil principally to the cause now mentioned. We believe that experience in other countries could bear out the same assertion. But in Scotland it is melancholy to consider the desolate condition of the more landward parts. The evil, however, has now been checked; large farming will cure itself for want of hands to carry on the work. From the slovenly manner in which the land was formerly wrought and cleaned, few hands were necessary; but if people are to farm with fair and natural prices, greater pains must necessarily be taken with the soil. In many places this want of agricultural labourers is already felt. Should emigration continue, and trade become as brisk as we have seen it, then the want of people will be felt *in earnest*, and large farmers and landlords will be compelled to alter their plans, and not too soon certainly. If more labour be necessary in order to insure good returns upon any farm, it is surely a strange thing that the labour, instead of being *increased* in supply, should be greatly *diminished*. Cottages must not be proscribed in the way they have been for many

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years. Landowners and farmers will now find it to be their interest to encourage cottagers; to give them every opportunity for improving their condition; to deal kindly with them, instead of harshly thrusting them from the homes which may be as dear to them as the palaces of the great. It is undoubtedly for the good of society that such should be the case; and it is well that things are gradually coming to their true level. Farmers should exert themselves to get cottages erected near their locality, and by the road sides; for, by and by, they will find that the item of labour will form no trifling sum in their annual expenditure. The tide of emigration is now rising; and although this may relieve the pressure on the labour market, yet, upon the whole, the sending away of so many able-bodied men is a decided loss to the nation. But for the entail law-rules, there is abundant room at home for our whole population. There would be plenty of work and plenty of food if land were not compulsorily kept waste. Adam Smith estimates the value of an able-bodied man sold at Fez, and argues that he ought to be equally as valuable here. The Yankees are cute people, and they consider every emigrant that lands on their shore as a clear gain to them of 1000 dollars. If we were to put any such price upon the head of every one leaving our shores, it would show what a vast amount we are losing annually; while there is yet abundant room for population doubling itself in our agricultural districts.

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#### SECTION IV.—PRODUCTIVENESS OF LARGE AND SMALL FARMS.\*

Should you ask any of our leading merchants or improv-

\* According to Pliny, the ancients were of opinion, that *above all things* the extent of farms ought to be kept within proper bounds; wherefore, it was a maxim among them, "to sow less and plough better." Virgil, that "immortal husbandman and poet," as a writer of the last century styled him, was of the same opinion.



ing farmers, whether large or small farms are most beneficial to the country, the verdict will most likely be in favour of the former. On the other hand, put the same question to any really observant, shrewd, cautious, hard-headed countryman, and as likely will he reverse the decision. The different reasons adduced in support of these two opposite opinions are worthy of examination. Probably the large farmer would tell you, that it was far more profitable to work six pairs of horses than one pair ; therefore, the farm of 300 acres must be best, *i.e.*, for him. The factor will tell you, he has no trouble in dealing with one farmer, compared with that which he has in dealing with other thirty ; therefore, large farms are best. Another will tell you, that a large farmer can afford to send more grain to market than a small one ; therefore, large farms are most productive. We cannot argue for the good of these individuals—our question must be, Which system is most productive to society ? It is not that which is most suitable for laird, large farmer, buyer, or factor ; we only argue for the good of all classes as a whole, not for any one in particular.

As John Stuart Mill\* and Sismondi have so triumphantly proved the superiority of the *petite culture* over that of the *grande*, it may seem unnecessary for any thing to be added here on that question. It may be noticed, however, that the wonderful results accomplished by small farming, are in lands freed from the yoke of feudal bondage, and are to be seen only where the shackles of entail have been broken off. We could hardly fancy such a happy time for Scotland ; yet why not ? Why should not Scotland be free as well as Switzerland, or the low countries of the Rhine, which lag so far behind us in other things ? We can see no good reasons whatsoever for such bondage. Our argument does not call upon us to show the *superiority* of small over large farms, although we suspect that would be a very simple matter. All that lies upon us,

\* Principles of Political Economy. Book i., Chap. ix., and Book ii., Chap. vi.

as far as the argument is concerned, *is to show that small farming may be as productive as large?* \*

Some may allege that small farming may suit the habits of the Germans or the Swiss, but, this nation being so different, it would be unsuitable here. We are a commercial people, say they, not a nation of agriculturists, therefore, what is suitable for the one is not suitable for the other. Long before we had any idea of writing a book, we used to point to a certain district of country as the *beau ideal* of a fine peasantry. The people lived comfortably, were comparatively free from pauperism. They had very considerable deposits at their credit in the bank. They paid their rents most punctually, and such a thing as a bankruptcy was unheard of. The arable land was let in small divisions. The "place," or "toon," was always the residence of a family, and the work was generally accomplished by the members of the family, without any extraneous assistance. Often, too, when the family was numerous, some of them were sent out to service, and gradually became able to do for themselves. The modes by which these people managed to live comfortably themselves, and bring up their families respectably, were numerous. They had the liberty of the hill for pasturing a few sheep and cattle, as also for supplying them with fuel. They sent wool, butter, honey, flax, hams, and many other products to market, for which they received payment in cash, which enabled them to pay the laird, and make additions to their stock lying at interest. No doubt, Scotch *thrift*, as well as perseverance and industry, were called into action, and they were attended with most salutary results. Now be it remembered, this state of things existed before the

\* To prevent all misapprehension, let us state, that we call not upon government to put down large farms, we only wish to show how the corn-duties act upon production. Now, as some mock improvers would make us believe that small farming cannot subsist in these enlightened times, we wish to expose this delusion, and demonstrate how our peasantry can flourish and triumph (with fair legislation), even amid the partial existence of large farms.

boasted improvements of modern agriculture were introduced. In these days, farmers had no sowing machines, their breeds of stock were bad, and yet notwithstanding they accomplished the journey of life in a most exemplary manner. Now, if such things were done without recent inventions, could they not do much better with them? If they were able to plod on, in the quiet even tenor of their way in those days, why not now? But I correct myself. Improve upon the system of small farming! What an idea! Who ever thought of that? You may talk of improvements in any other sublunary thing, but according to some enlightened philanthropists, there can be none in small farms; down they must go, there is nothing that can possibly save them. Science that has done so much for every thing else is powerless for them—it, too, is even talked of as accessory to their doom—what terrible presumption! As soon as you begin to speak about small farms to a certain class, they immediately remind you of the old “*rig and a baulk*” method, they will tell you of feudal serfdom and many other bugbears, as if no small farming could exist without such encumbrances; but we happen to know better, we have seen what has been done in our own country, and we have read of what the *petite culture* has achieved in less-favoured lands abroad.

One of the most common arguments adduced in favour of large farms is thus stated. Suppose 100 acres of land are subdivided into four farms, four families must necessarily have a livelihood out of the hundred acres, therefore, by throwing the whole under one family, the living of three families will be saved. This sounds very well, but a closer examination will show the fallacy. It is supposed that these three families are paupers, that they receive a living out of the soil without giving any thing back in return for it. The three burdensome farmers, as well as their families, are supposed to be perfectly useless.\* They are supposed to do no

\* Some people, when they have a commodity to sell, reason in a similar manner. They say, let us go to the first market, and we shall save the

work, and the wives merely cook the victuals without assisting in procuring them. They are supposed to make no butter, rear no poultry, and sell no eggs; but where was such a state of matters ever seen? Let us see that the result is not the reverse, and that by having the place under one, there *is the loss of his keeping*, for a man with such a farm generally goes about completely idle, works none himself, whereas the four small farmers work themselves. Again, the expenses of the one household are much larger in proportion than those of the four small ones. Our gentleman farmer must needs have a gig, he must go to town every weekly market-day, ostensibly for the purpose of selling his grain, but in reality for some other purpose, whatever that may be. He could often accomplish all his business in an hour, but a whole day is set aside for the purpose. The small farmer lives by the sweat of his own brow, while the large farmer lives by *profit*—"sudore vultus alieni." \*

Another grand argument for large farms is this, that by throwing these four places into one, a pair of horses is saved. We heard a farmer vaunting about this lately. We asked where the great saving consisted, for granting that he saved one pair, did he not now expend *more* upon the horses *he* had than did the former occupants upon their greater number? He could not deny it.

The products of a large mill can be increased by division of labour; it has been shown, however, that no advantage can accrue in farm work by its being conducted on a large scale; but surely a man must be more careful in doing his own work than in getting it done by servants—at least such is the case in every other business. The large farmer says to his labourers, "Go to your work;" but when the small farmer dealer's profit. One or two experiments will show that the wages which a respectable dealer receives are not lost, and from his experience, from the extent of business he does, he can afford to give a larger price than the unexperienced purchaser will obtain at the other end, after paying the expense of conveyance.

\* "By the sweat of another's brow."

has occasion to hire them, he says, "*Come.*" Those who have had the experience of work going on, and have had the pleasure of paying for it, will easily understand the difference. As far as regards manure, the small farmer has a most decided superiority; the great distance at which outfields lie from the steading causes the farmer to cart out the manure in winter so as to be at hand when the seed-time begins. It lies in heaps exposed to every blast, and this takes away the strength. The rain pours down upon the heap, washing the sap of it into the earth, and it cannot be doubted that the loss arising from such a system is enormous. This the small farmer can wholly avoid, as well as save the extra expense of carting to a great distance; he can also save the leading back of grain to the steading in harvest. It has likewise been proved that more cattle may be reared in proportion upon small holdings than upon large ones, and, accordingly, there must be a better supply of manure in the one than in the other. As regards the management of fertilising agents, hardly any improvement has taken place in this country for the last hundred years. Compare, for example, the small farmers on the Continent with our large farmers here in this branch of agriculture; why, it is only a few years ago since the uses of liquid manure were known at all, and in many districts *it is allowed to run waste altogether!* Alas! for boasted improvements. Let our large farmers give up vaunting of what they can do, and contentedly sit down as pupils at the feet of small farmers in the Palatinate, and the wholesome lessons they will learn will be very profitable to themselves and productive to the country.

We have adduced one instance of a country subsisting by small holdings. We only know of one instance in this country that will bear any comparison with the improved systems on the Continent. It is a hill-side where the fields are laid out in patches; the soil is thin, but is formed from the *debris* of trap rock, and it is very fertile, although not more so than the adjoining lands. We are informed the people live com-

fortably, and pay rents of from £8 to £10 per acre. It is a beautiful sight to look upon; you see industry carried to a great height; the industrious people are always to be found tilling or cleaning; and any one can see that large farming could never compete for a day with this *petite culture*. In the immediate neighbourhood of this fine scene lies one of the best farms in Scotland, where some 500 acres are under the charge of one man. The land is very heavy, but it is our decided opinion, that if these 500 acres were subdivided into small farms, a vast deal more would be produced, and a number of families could make an excellent living into the bargain, where only one family now subsists. We could point out, if necessary, how this could be done, and that most advantageously.

There is another district where the holdings are small, which is one of the best cultivated that is known to us. It is very high, yet some kinds of grain are grown there better than in any other place we have seen.\* But the great advantage here is, that every one has something else to do besides farming. Their trade requires carting, and this dovetails admirably with the farm, for its work can be accomplished at spare times; the horses are fed with the provender raised upon the place, while their manure in return helps to enrich the soil. Now, by the system of large farming alone, rents could not be got any thing like what is paid at present for these acres; although very high above the level of the sea, and the climate, of course, not so good, while the soil is thin and gravelly, yet by their excellent system of combining trade and farming, they pay much higher rents than those of carse lands! It has often astonished us how they managed this, but nevertheless it is actually the case.

Another great objection to small farms is, that they require more capital to be expended upon steadings, for, say some, one steading will do instead of two or three. The lairds now-a-days think they should draw enormous sums of money

\* Barley has been shown weighing 59½ lbs. per bushel.

from land without being annoyed with applications for alterations, or outlays for additions; by and by they will find that their ideas are erroneous, and that unless they look after their trade, their trade will not look after them. Soon they will see it to be their interest to encourage industry upon their property, and give every accommodation for its development. But we have yet to learn that the loss upon outlays for small farms is more than that for large ones; on the contrary, we believe they cost less in proportion than large steadings. If any addition was required upon a "toon," all the claim put in was for the *raw material*, viz., a few trees for baulks and stringers, stones from the neighbouring quarry, broom for thatch, all of which commodities are not very valuable. The tenant drove home the wood and got it sawn, he quarried the stones and carted them at his leisure, did the thatching, and erected the building himself. Now, on a large steading, all that the farmer did was to "perform the carriages," slates or tiles, lime, plaster, and all the tradesmen's accounts would fall to be paid by the laird. We cannot see how the expenses for steading on the small system of husbandry should be nearly so much as those on the large.

But there is another attendant on large farms which we have not as yet adverted to, viz., the infamous *Bothy System*. This is not *always* found in large farms, but it has never been known in small ones. It is only within the last fifty years, since "improvements" have become so common, that Scotland has been visited with this crying evil. It cannot exist on small farms, but so soon as a number of farms are thrown into one, its baneful effects may be traced. And we venture to say, that unless this undoubted defect in our social arrangements be removed by Act of Parliament, it will exist as long as our bad system of farming prevails. Attempts are being put forth to get it improved, and appeals are being made to farmers to give it up, but when they confer such a boon upon the public, times will be materially changed. Some philanthropic individuals among the far-

mers may give it up, but the mass will not, until compelled to do so. Among all the crimes that have been laid to the charge of the Highlands, the adoption of the bothy system is none of them. This vile plague has not as yet visited that part of our country, and we hope never will; it is peculiar to the low country, but it is hoped that it will not remain long there either. Black slavery has been banished from the British empire, why should not the White be banished also? Bad as our niggers were, they had only the name, our white slaves have the reality. As the consideration of this subject and its effect upon society falls to be considered afterwards, it has only been necessary here to trace this evil to its real source—large farming; and it is one of the great evils that flow from that bad system.

In conclusion, under this head, let us not be afraid to state that small holdings are much more productive to the country than large ones;\* that larger rents can be afforded for the one than for the other, and are generally more punctually paid; that the bothy system has been introduced by the undue extension of farms, being unknown on small ones; finally, that it is in consequence of the high price fictitiously put upon grain by means of the import-duties, that all these evils have arisen.

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SECTION V.—EFFECT OF IMPORT-DUTIES ON TRADE AND MANUFACTURES.

We have already stated that the natural resources of our country are very inconsiderable unless enriched by industry—that, but for our commercial and manufacturing enterprise, this

\* “It may be assumed that farms of one plough give the most profit, and for the interest of landowners and the state, the small farms are most desirable. A large population which obtains the utmost from the ground will bring in the most profit to each of these parties. The Waes Country furnishes a most complete proof of this.”—*Cyclopædia of Farming*, article “*Flanders*.”



would be a very poor country indeed. How, therefore, trade should be impoverished to aggrandise agriculture, by means of legal enactments, is more than we can understand. Agriculture, did we say! Nothing of the kind. She puts forth no claims of superiority—she repudiates the imputation as hostile to her—it is only some persons actuated by mercenary motives who have put such arrogant pretensions forward in her name, the better to conceal their real object. Trade and agriculture have been long married; and their early love would still be continued but for the interference of certain malevolent intermeddlers, who are equally hostile to husband and wife. These two lovers are naturally joined—let not man put them asunder. Let no pretended benefits to the one at the expense of the other be tolerated, for they would be involved in a mutual loss. The wife cannot be benefited by injury done to her husband; and neither can the husband be benefited by mischief accruing to his wife.

There are two ways in which the noxious interference of the corn-duties injures trade,—first, by repressing its growth; and secondly, by depriving it of the fair rewards of its industry. Our population at home are consumers of British-manufactured goods to, perhaps, ten times the extent of our colonists, or any others; then, why banish so many good customers from our own door? Will they consume as large a quantity of goods when banished into the heart of a Canadian forest as they will do at home? We trow not. When vast tracts of country are under the dominion of one man, he can afford to proscribe trade; but if lands were better allocated, waterfalls could be obtained in country places, without concentrating manufactories so much in large towns. Just now, supposing that a lucrative branch of trade could be carried on in a country district, no land could be got; and, houses being doomed, no hands could be got to carry on the labour department; and as commerce in country places is so circumscribed, the necessities of life are much higher in price than in towns. This is a strange anomaly, and is

not to be met with any where but in this country. It not unfrequently happens that a poor man with a limited income leaves a country residence to take a garret in a town, where he can procure the necessaries of life, such as meal, bread, cheese, &c., at a cheaper rate than in the country.

One of the principal political writers of our day has given it as his decided opinion, that our manufactures have already reached that height which is desirable, and that any increase would be loss rather than profit. If such be the case, yet it is not necessary that the operatives should be robbed of the due amount of food they ought to have in open, fair, and free markets. We have seen them condemned for having ensigns and flags posted up with the cry of "Cheap bread!"\* They have been denounced for so doing, but with those who denounce them we have no sympathy. They should combine and oppose such plunder by every legitimate means in their power. Some mottoes bear—"No taxes upon the food of the people." This is wrong, because really there is very little of the extra price which goes for "taxes"—it falls into the pockets of those who are possessed of land. For our part, we should consider it our duty to try several schemes before submitting to an imposition of a penny or twopence per loaf for the purpose of enriching a class of men who, to speak charitably of them, are not the greatest patriots in the nation. But we are told,—“For one penny the labourer pays extra upon his loaf, he gets three back.” Now, if any one can show us the truth of this statement, we shall willingly give up our case—if you only drop one pound into the land-owner’s lottery, you are certain of getting three back. This ingenious contrivance only requires to be put into operation, in order to *create* a triple outcome—this is the philosopher’s stone discovered at last! It is true that what money the land-owner obtains, he spends a part of it—often a fractional one—in the neighbourhood; therefore the labourer may have a

\* “Hunger,” says a Highland proverb, “has long arms;” and Bacon says, “Rebellions of the belly are worst.”

chance of getting some of this back in the shape of wages: but, pray, does he not *work* for such wages? Do landowners pay him back the triple sum without *full value* in labour? So far from this being the case, labourers in the employment of landowners are generally *paid less* than when employed by ordinary business people. If any water goes past the laird's mill, it is generally unknown to him. But there is perhaps more in this than appears at first sight, and we shall submit *that there is less rent-money spent in the country than perhaps any other*. Thus, a labourer spends in the actual growth of his locality, perhaps, of his whole income, 80 per cent., while those with incomes of £50 per annum, spend 70 per cent.

„	100	„	.	60	„
„	250	„	.	40	„
„	1000	„	.	30	„
„	10,000	„	.	20	„
„	50,000	„	.	10	„

If these guesses be near the truth, it will be seen at once what good the income of our proprietors does to our country. The larger the income, the greater the foreign expenditure; the locality only gets a few sovereigns circulated round, about the months of August and September—the *pence* are spent here, the sovereigns in London. If the labourer work hard, he may have a chance of getting a few of the “*pence*” in return for hard work; where, then, is the great advantage of allowing our landowners a rate of one penny on each man's loaf? Some landowners say that they are the persons who keep up the country;\* and we have been astonished to hear people of intelligence declare that the country is ruined, for the landowners have nothing to spend to keep it up. Nothing can be more absurd. We have endeavoured to prove that the *wealth* of our country has been increased by the abolition of the corn-duties—the *production* has been increased. Hence there must be more wealth in the country; and, more

\* Bacon says, “It was prettily devised of Æsop. The fly sat upon the axletree of the chariot-wheel, and said, ‘What a dust do I raise.’”

being spent there than formerly was the case, the difference is that more of the wealth is used by the industrial classes. The wealth is still at home, only it is spent by different hands—there is less of it to the laird, more of it to the labourer. Wealth is not created in a country by the money being *spent*: the resources are multiplied by industry, not by dissipation. For instance, you hear of people saying, that, although such a building is of no use, yet the money spent in its erection improved the neighbourhood. You hear of a young man spending his fortune in debauchery, and the remark is made that some other people have got the money. It would be a long time ere a country would be really enriched, or its resources multiplied, by such proceedings. If our landowners spent more of their rents in useful improvements, a better case could be made out for them: at the same time, supposing they spent the *whole*, no good could accrue to society from the labourer having one loaf per week taken from his frugal table to carry out these improvements.

Perhaps there is no business injured more by the system of high corn prices and large farms, than that of the local trader. Among an industrious peasantry he can do some business, he can trust them with greater readiness than he can do the large farmer; they may take a little credit (a thing, by the way, all farmers are pretty good at), but they pay punctually at the time agreed on. And they are by no means *hard*; it is much easier to get a profit from dealing with them than with the large farmer; he goes to market direct, buys his seed, guano, groceries, &c. at the wholesale price, and he sends his products to the best market without the intervention of any dealer. Some may consider this as advantageous, but merchant traders should be the last to do so, for nothing can more effectually ruin their trade; they ought to come out as the avowed enemies of the large farming system, for by it their capital and talents are rendered useless. It is no disadvantage for a country district to have some active merchants in it; they can find outlets for goods

that others not in their business could not find profitable; by holding out inducements of good prices and ready money, they most effectually stimulate the production of any neighbourhood, and they impart additional energy to agriculture.\*

If we survey the wide field of history, we shall find that as nations reached the summit of their glory, farming came to be carried on in small divisions. The extra supplies that a populous nation required could not be provided by the loose methods adopted in large farming. We find that as agriculture improved, so the size of farms diminished, gradually approximating to the garden *culture*, and history presents no surer nor more fatal sign of decay than when farming is conducted on a great scale; but although this has been the case in our country, yet we hope it has to some extent recovered from the shock, and that the size of farms will no longer be increased by an infatuated legislature, either directly, or what is perhaps worse, indirectly and insidiously.

There is another great disadvantage caused to trade by the present system of things, viz., narrowing the means of livelihood in towns. By thrusting in multitudes of poor people into our cities, competition is unduly extended, and one is incessantly treading upon the heels of his neighbour. Would it not be much better for all parties if there were more people in the country districts to make the beginnings of a trade, and fewer people in towns to eat up that trade? Look at the numbers who apply for a vacant situation, worth perhaps ten shillings per week; an advertisement in the "North British Advertiser" will bring in 150 applications in the course of a week. As soon as young men can do any thing for themselves, they are immediately packed off to a town; there is nothing for them to do in the country. Such symptoms do not betoken a healthy state of the social body.

\* "For their merchants they are 'vena porta,' ('the great vein of the human body'), and if they flourish not, a kingdom may have good limits but will have empty veins and flourish little."—*Bacon*.

## SECTION VI.—SOCIETY.

HAVING now arrived at the most important part of our subject, we have next to inquire what effect the corn-duties have upon society, upon the people, upon their *persons*, as contradistinguished from their property. We have to ask if those duties increase the morality, improve the manners, enlarge the comforts, and develop the true well-being of society? whether, in short, is their influence upon it for good or evil? Do they tend to uplift society, or do they tend to aggrandise a few at the expense of the multitude? Compared with the good of the people, the mere increase of things is as dung, and never would be for a moment put into competition with it by enlightened legislators. But as we have already shown, *no increase* can really take place at the expense of society. Such an idea is only a hallucination. No doubt, a legislature has been known to take from one class to enrich another; but is there any *increase* by such a transaction? It is unjust distribution, and, as such, has the undoubted tendency of repressing production rather than encouraging it. A distinguished foreigner has very justly remarked, that in no part of the world except Britain is wealth made the sole object of the care of the legislature, while the happiness of the people is neglected. It was not so in Scotland in old times, the well-being of the nation, and especially the poor, were under the immediate care of the king; and under the enlightened sovereign who now sways the sceptre of this empire, the happiness of the people is likely to receive much more consideration than it has done for a long time in Britain.

The first subdivision which we shall take up is that of the *Bothy System*. Independently of its being one of the evils introduced by the corn-duties, we know of no more legitimate subject for investigation by the student of political science; it is a field in which little or nothing has been done,

and by giving it his careful study, some light may be thrown upon it, which may be turned to good account. On the philanthropist and patriot it has peculiar claims; it is here especially that their influence may be felt, and here, if they accomplish any good, it is of the most important kind, seeing the influence it will exert beneficially, instead of injuriously as at present, on other members of society.

By the bothy system, our readers will understand that method of lodging ploughmen or farm-servants together in an out-house—very frequently the room is above the stable, the byre, or the barn. There they have to cook their own victuals, they have to perform the duties which are designed to be performed by women, whose services, according to this barbarous mode of life, are dispensed with. Was such the intention of our Creator when he formed woman as an helpmeet for man? It has been remarked, that there is no better index to the state of civilization in any country or in any age, than the position which woman occupies in the social scale. The lower her position, the lower the intelligence of the people among whom she resides. Thus, among the savages of the black mountains, she is a slave only fit for performing the most menial offices, such as tilling land and procuring fuel for the fire. On some farms\* in Scotland, civilization is so low that we only see one married woman on a farm where perhaps twenty worthy and respectable families were formerly reared. We see at the same time males and females huddled in out-houses—the men in their bothy, and the women taking shelter under some other erection. Will any man venture to say, that such is a good state of civilization? Is it not approaching to, and very like the habits of the red savages of the far West?

It must not be supposed that *all* bothies are equally neglected. In some cases (but they are unfortunately the

\* The cases I refer to have come under my immediate observation, and may be perhaps a shade worse than the average. The bothies are worse where the farmer does not live at the homestead.

exceptions), the bothy is kindly remembered by the farmer's wife, who causes it to be occasionally cleaned out; she is concerned to know whether the men go wandering at nights, or whether they go to rest so that they may be able for duty on the morrow. Books, tracts, and newspapers are sent for their perusal, and thus the hardships of their lot are somewhat softened. We have observed that much depends upon the religious character of the farmer, for with him there is nothing known of what is called "rough places." His influence, carefulness, and good example are very apparent in the habits observed in the bothy; and serious well-doing lads endeavour, even though at some sacrifice in wages, to get into such a "quiet toon." At farm steadings where there is no mistress, or where that personage is not of a kindly disposition, the condition of the bothy is melancholy. A ploughman, who is much above the average of his class for intelligence, has informed us, that the place where the men are kept is sometimes not much cleaner than the byre; the men have to make their own beds, sweep their own floors, kindle their own fires; when they come home at night, often tired and wet, they throw themselves down beside the fire and often fall asleep in their wet clothes, resulting sometimes in rheumatisms all their life after. At such large farms there may be production on a large scale; as far as the bothy is concerned, there is no division of labour. It is amusing to hear some farmers lamenting the evils that must ensue from recent reductions in the price of grain; *they* cannot afford to pay such wages as formerly they did; *they* must take down the ploughman's salary, and the wright and blacksmith must lower their prices. Farmers forget that there are such laws as those of supply and demand, and as far as the labour market is concerned, they have precious little control over it. If labour was left to their tender mercies, no doubt it would be paid even worse than it is at present, and of the truth of this statement some excellent illustrations could be adduced. To hear such large farmers talk, you would imagine that



formerly their servants were princes; that when the price of corn was at the highest, as well as the price of their other products, agricultural labourers were in the garden of Eden. But much as we respect you, Mr Farmer, we know too much to the contrary to place any reliance upon your rhodomontade. In one of the principal feeding-markets in Scotland, we know that the ploughman now receives *fully as good* wages as he did when you received nearly one-third more for your produce. Can you deny that, sir? The condition of labourers has been much improved since the reduction of grain, consequent upon the abolition of corn-duties; but it is neither owing to the goodwill of the protectionist nor that of the large farmer that such is the case. In spite of them both, society will see that no good results from the labourers being crushed, and it will rather assist them to regain their natural position than hurl them further down.\* If you survey the whole field of labour in Britain, you will perhaps see no men harder wrought than Scottish ploughmen. They have long hours, are out in all weathers; but if there be harder wrought men, there are none who are paid less for their work. None are more quiet and well-disposed to the commonwealth; free from unions and socialism, their voice is never heard whether for good or ill; and there are none who are less thought of or cared for, either by their immediate employer or by society at large. These labourers are fed on the meanest fare that it is almost possible to subsist upon; they are

\* The Romans, no doubt, employed slaves in agriculture; but even their condition appears to have been far superior to that enjoyed by ploughmen at present upon large farms. An ancient writer quotes a maxim, that the bailiff should not eat but in the sight of all the servants, nor of any other thing than what was given to the rest; "for thus," he says, "he shall take care that both the bread be well baked, and the other things prepared in a wholesome manner." . . . "A diligent master ought to inquire, both at themselves and likewise the free servants in whom he may put greater confidence, whether they receive the full of what is allowed to them; he himself ought likewise to try, by tasting the goodness of the bread and drink, and examining their clothes, mittens, and shoes."—*Columella*, lib. i. cap. 8.

destitute of any lodging that is fit for a human being to remain in, and their wages, considering the work they perform, are wretchedly small. Compare them with English ploughmen, with those in most of the agricultural districts: why, in England the ploughmen do not work much more than half the number of hours that the ploughmen in Fife labour.\* They get good cheer four times a-day; they finish their work often at three in the afternoon, and even while ploughing, they have an assistant to guide the horses. You hear much of the superiority of Scotch over English farming; what does it amount to? The farmers there are far better off than our Scotch farmers, and the labourers are princes compared with ours. How is this? Is there not something wrong here? If the people of Scotland farm so much better, why should they not be more comfortable, instead of being so very much the reverse. If any stranger were to overhear a conversation regarding ploughmen in Scotland, by some large farmers, they would be justified in concluding that the ploughman occupied some such position on a farm as the horse does; he is not looked upon as a moral being, but only valued according to the amount of work that can be extracted from him.† You hear them dilate upon his *working qualifications*, as if these were all that was necessary to form a complete man. You hear of his great superiority,

\* On consulting several English acquaintances who are conversant with the condition of their agricultural labourers, they assert that although the English ploughman is not so long in the yoke, he performs much more work; in ploughing, the Scotchman may do more, but in mowing, filling manure, &c., &c., the Englishman accomplishes much more. Not being sufficiently acquainted with the merits of this question, we cannot pronounce an opinion; but it does seem likely (from the vast superiority in *feeding* which the Englishman enjoys over the Scotchman), that the former would be much better able for his work than the latter.

† "Whatever were the number of the agricultural population, they formed no part of the nation. They were regarded as scarcely superior to the domestic animals, whose labours they shared. The higher classes would have dreaded to hear them pronounce the name of country; dreaded to call forth their moral or intellectual faculties."—*Sismondi: Fall of Roman Empire*.



but it is only physically; did you ever hear of his being thought useful for any other, any higher purpose? The whole philosophy regarding ploughmen just consists in trying how much labour can be dug out of them; as soon as that is accomplished, they are cared nothing about. It has been often stated, that the farmers care more for the health of their cattle and horses than they do for their men.\* So far as we know, the statement is substantially true. They could sit and hear of a man being taken ill without concern; but if a horse or a cow were seized with illness, there would be an instant express sent off for medicine and assistance without a moment's delay. Is it right that human beings should be esteemed at so low a value? Posterity will hold large farming responsible for degrading human nature down to a level so low as to be disgraceful to the country and age we live in. Turn up any good account of the manner in which negroes lived before the emancipation which cost Britain so much gold. "Dwelling in cottages which, by a prescriptive usage, had become in a manner their own; surrounded by their gardens, their fruits, their children, they exhibited, generally speaking, a spectacle rarely witnessed in this world of care, and to which the eye of the philanthropist might turn with pleasure from the brightest scenes of European civilization. . . . They had generally *two days a-week*, besides Sunday, during which they were at liberty to work in their gardens, or at wages on their own account; and so prolific was nature in that benignant climate, and such the reward of industry and good conduct, that after being provided, themselves and their families, better than any peasantry in Europe, they could lay by with ease thirty pounds a-year, and their cottages were comfortable, often elegant." †

\* "We could lie unwell for a day in the bothy," said a young country lad to me lately, "without being inquired for; if a horse or cow were ill, there would be more noise about the matter; one of these costs money; it costs nothing to get another ploughman."

† Alison's Essays, vol. i., p. 320.

Looking at that smiling prospect, and comparing it with the state of life exhibited by the workers on a large farm, I ask whether it may not well be said, that our white slaves possess the *reality* of slavery and the black slaves only the *name*?

We have already stated that the bothy system is only of recent introduction. It was hardly known forty years ago, but it has been increasing every year, and growing in its disastrous effects. When large farming came in vogue, it was found very troublesome to keep so many men in food, and bothies were erected for the purpose of accommodating them. To housekeepers of the Mrs M'Clarty stamp it saved a vast amount of trouble in the kitchen, it was found much easier to give the ploughman two pecks of meal per week than to cook his victuals for him, and to keep his lair clean. Ploughmen were tempted by the large supply of meal they obtained to try and save a little out of it, and when work was not so hard as it is now, they could save from one-half to a third of it. But at present the saving is not great, probably about thirty large pecks per annum, value about 1s. each—thirty shillings a-year! This they calculate will pay their shoemaker's bill, when not spent in dissipation, which it too often is. Abettors of the bothy system may urge that ploughmen themselves prefer that mode of living; therefore why meddle? Dr Wardlaw, in lecturing on prostitution, could as well be met with a similar argument, but what weight was it of? Is it any redeeming feature in that vile trade, because the victims go to the pit of their own free will? I am quite aware, that in Fife a ploughman will engage for a pound less per annum with his meal and milk, rather than take his food in the house; and besides the temptation he has before him, of unduly restricting his food, there is another and perhaps a worse tendency, viz., *that of getting liberty at night*, and certainly they make ample use of that liberty—they are often on the wander all night, and that for no good purpose. Many a pang has it cost a good man before he could consent to allow his son to encounter the great temptations to immorality

which are to be found in most bothies.\* Many a mother has had a sore heart before consenting to her son's going out to service, afraid that the lessons she has taught, the counsels she has given, will be unable to steel him against the wickedness he has to come into immediate contact with.† Before the rural police were established, there were few greater thieves in the country than were the bothy lads. They plundered straight forward. Roosts were totally cleared of their inhabitants, aye, as clear as some of our Highland glens of their population. One of the party procured a sack, and mounted on horseback, while the rest filled it with poultry, cheese, or other good things within their reach; they travelled miles on such nocturnal expeditions, and we know of one instance where a fat bullock was carried off and the spulzie divided. They had a peculiar manner of cooking the fowls which rendered them peculiarly tender. A straw-rope was woven round the bird, which was forthwith put among the ashes at the back of the fire, when in a short time it was roasted to a most delicious morsel. This was not very bad cheer, especially when accompanied with a cask of ale, which they occasionally got lifted, or, when smuggling was carried to a great extent some thirty years ago, they often managed to procure a keg of whisky, with which they intoxicated themselves. In some civilised "toons," a few books were sometimes introduced, and occasionally a newspaper could be subscribed for, but this was very seldom; the evenings were

\* When a young man enters a bothy, every scheme is tried to reduce him to the level of wickedness in which the rest are. They take a fiendish delight in thus leading the young astray. It has often been noticed, that one bad character in a bothy is sufficient to pollute the whole, and leads the unsuspecting youth into many snares. What an illustration of the words of Scripture, "One sinner destroyeth much good!"—(Eccles. ix. 18.)

† "An' O! be sure to fear the Lord alway!

An' mind your *duty*, duly morn an' night."

We are afraid that many now in bothies will not understand what "*duty*" is here alluded to; particularly we are doubtful if it be much understood among that class which the advices are addressed to.—(See *Cottar's Saturday Night*.)

generally spent in conversation characterised by the grossest obscenity, and the discussions were almost always about the relative goodness of the horses. What a state of society, and that too prevailing under the boasted improvements of modern times! What a parody on the words, "agricultural improvement!" The ploughman will bluntly tell you that there is no harm in getting drunk twice a-year at feeing-markets. These two days are the only spare days which he gets in the year, and he thinks he should make the most of his opportunities to indulge in the most shameless wickedness. How different from our black slaves, who had *two days per week* for their own purposes! Talking of feeing-markets, they have been compared to the sale of slaves by the Yankee auctioneer in the west; it is a mistake, our ploughman's services are not transferred by auction. The comparison would be much more correct by referring to the slave markets in the east—that painted by Sir William Allan, for example. Go to seek a ploughman, you have no other criterion to judge by than the slave purchaser—physical appearance. Certificates are neither asked nor given. Some questions may be put about their former service, which being loosely answered, the bargain is made without further ceremony. It is a melancholy thing to see men *bought and sold in a public market*, as if no better than the animals which they work. Symptoms of improvement in this department are beginning to appear, and some philanthropic individuals are endeavouring to establish registers, by which the men may know such as are desirous of engaging servants, and thereby have time to inquire into their character; while the farmers may also learn of men seeking for places, and be able to know whether their former conduct has been good or bad.

Since the great extension of large farms, the ploughman's hopes of ever bettering his condition have been nearly cut off: his life is an incessant toil, and it is without the cheering prospect of the slightest alleviation. Formerly, by dint of great frugality, he might hope to save as much as would stock

a small holding, but there is no such prize held out to him now. Small farms are not to be had; and the few that are to let fetch such high prices that no hope is entertained of the tenant paying his way. Formerly, his small accumulated capital sufficed to enter him; and if he had fallen behind, the saving thrift of himself and his wife would soon make it up; then his family, as they grew up, enabled him to improve his land and spend the remainder of his days in ease and comfort. By the time a ploughman reaches the age of forty, he is worn out, quite stiff, and unfit for almost any work; his only chance is to set up a public-house in a town, where he inveigles as many of his old cronies as he can. Some stray ones manage to become dairymen, and others to get other employments, but such instances are rare. "We dinna live lang," said one of them to us lately; and perhaps, as a class, ploughmen are not long lived, inflammations and rheumatisms being prevalent among them. You see them working in the field: the rain comes on, and the farmer, *to save the horses*, orders them home. They commence thrashing corn, or some such arduous work, with their wet clothes on all the time, so that they perspire through wet, one of the most certain means of destroying their health.\* Feeding upon raw meal, with hot water and milk, three times, cannot possibly be a healthy diet. Some strong men stand it out, but I am informed that it destroys the stomachs of many. No doubt the milk does help them in a great measure; but still brose or porridge three times a-day is very low food. Cattle and horses get their food prepared for them on some farms: I do not see why men should

\* Ploughmen are said to be very healthy men, but the statement is not to be received without examination. If they are so, it is from the *nature of their employment*, which must be much more salubrious than working in a manufactory. Taking them as a class, they are not nearly so healthy as they ought to be. The meal which forms their food being nearly raw, is certainly very pernicious; and were it not for the counteracting effect of so much fine milk, its operation would be more easily discovered. We are credibly informed that the milk is often adulterated; and that, if the ploughmen are not on their guard, it will be diluted with water.

not have the same. On some farms ploughmen do not get even milk, but in lieu receive money, so that they may buy ale or whisky with the cash. This is a most disastrous condition for the men to be placed in. We know of one farmer who told his foreman that he would give no more milk, but money. "If you adhere to your resolution," said the ploughman, "there will not be a man on your town by to-morrow morning. I had never a better set of men along with me, and I shan't see them treated but as men. I know how the money would be spent, and I warn you that the experiment will not be tried here." Of course there was no more word of stopping the milk. Under the old system, hospitality existed to a great extent. When there was only one pot put on the fire, the ploughman could welcome his visitors to partake of the homely fare: they had not perhaps much "kitchen," but what there was of it was given with hearty goodwill. The farmer by no means objected to his ploughman bringing in his friend to partake of the best hung bacon, and perhaps a glass of smuggled mountain-dew to wash it down. At present, if a ploughman wishes to show any respect to his neighbour, they must adjourn together to the nearest public-house, where the only cheer they can obtain is some raw whisky. What a mighty improvement on the kail, the bannocks, and the bacon of the former times! Does this artificial mode of destroying the domestic character of servants—of shutting them out from the comfort of a fireside—not brutalise their dispositions? Does the want of suitable means of enjoying themselves not send them to the public-house, and encourage habits of drunkenness? Doubtless it does. Under a more natural system men would be better fed, and be better able to resist the temptations thrown in their way; but, by being continually fed upon oatmeal, there is always a craving within them that whisky is well adapted to satisfy, and unfortunately it is too often applied to for relief. But having said so much against the disease, can no remedy be suggested? If you speak of the method of giving men their food in the house,



innumerable objections will start up. Believing that the disease is constitutional, not local, no outward application can cure the sore. The method of boarding the ploughmen in the house is liable to insuperable objections, according to some people. Perhaps the readiest cure which could be thought of would be an Act of Parliament, specially intended for putting down this abominable truck system—worse, perhaps, than that which called for the former act. Ploughmen should be punished for being parties, and farmers should be rigorously dealt with who should offer to “truck.” If the system of trucking has been put down among other workmen, why not with farm-workers? If that healthy measure has been attended with such great advantages to one class of workers, what is to hinder it from being equally advantageous when applied to workers on farms? If the ploughman were placed in the position he ought to be in, and which he deserves, he would stand on a much better footing with the farmer—he would feel that he was really *a man*, and the independence of his position would make him a far more valuable member of society. Ploughmen complain of the boarding system, that they are at the mercy of a sulky housewife. Now, if the farm-servant *paid for* his board, he would certainly be placed on a much better and more independent footing. He works very hard for his wages; why not get the full benefit of them? Again, if he had his money in hand, what would hinder him from boarding or lodging with some cottager, who would attend to his wants and render him comfortable? Were there *a demand* for such accommodation, a supply would soon be provided. Ploughmen would be infinitely better under such an arrangement; and many an industrious elderly female, who had become too frail for out-door work, could thus obtain a livelihood. The local trader would find his trade very much improved by the putting down of this farming-truck system, and society would reap a decided and real advantage—the gain would be clear, and free from any loss. A great and influential portion of our countrymen would be *emanci-*

*pated*, and that without a payment of twenty millions sterling. But should our legislature consider the agricultural labourers too insignificant for any amelioration to be bestowed upon their deplorable condition, our only hope will remain in the abolition of the entail statutes. Then large estates will be broken up, and rendered three times more productive; and, as a consequence, the large farms will be broken up too. At the same time, we hope the bad practice of hypothec will be effectually abolished, and nature will thus cure herself. The remedy may be postponed; but if Scotland is to retain her place among the nations, changes for the better must undoubtedly take place, and along with general improvement will come a blessing to bothy lads, and their amelioration will be the first-fruits of a better economy.

It may be safely averred, that there was never any thing introduced into the rural districts of Scotland which exercised a more baneful influence than this abominable bothy system. It degrades the ploughmen to the level of savages, causing them to herd together without the civilising influence of the more tender sex; it saps the very foundations of their morality, and exposes them to innumerable temptations to vice. And we still hope that, from among the agricultural labourers, men of industry, intellect, and high moral principle will yet arise to benefit their fellow-countrymen, as was the case in days gone by; and that, as a whole, they may exercise a wholesome influence upon society, instead of acting, as they do at present, as a drag upon its movements.

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#### SECTION VII.—THE PEASANTRY.

Whether we consider the millions upon millions of human beings that perished, or the shock which civilization over the whole globe had sustained (and from the effects of which society has not yet recovered), there can be no difficulty in

coming to the conclusion that the fall of the Roman empire was one of the greatest calamities that has ever befallen the human family. No single solitary cause could have occasioned such a catastrophe; but if one thing be clearer than another—if historians could ever be said to agree on one point rather than another—it is this, that Rome fell, not by external assaults, not by foreign invasion, not by encroachments of a hostile and more powerful nation, but by an *internal disorder*. What this disease was, how it was induced, how it operated, and, lastly, how it accomplished the destruction of such a glorious edifice, must be questions of the greatest importance to all future nations, and to all such as make it their business or pleasure to study the fortunes of the human race. The investigation of these phenomena cannot therefore be unprofitable, especially when the symptoms are so very analogous to those of *our own nation at the moment we write*. With the exception of a few local names, a description of Scotland and of the Roman empire would strikingly correspond the one with the other.\* And if we could see into futurity—if we could form a guess of what must be the result of that infatuated policy which has been,† and is still partly, pursued by our legislature—we cannot doubt but that the same causes must produce the very same results as they did produce in former days in the empire of the Romans.

What, then, was the internal ulcer which devoured the vitals of the dominions of the Cæsars, and accomplished what no external force could effect? It was the destruction of

\* "Whole districts, whole provinces, were successively abandoned by the cultivators, and forest and heath usurped the place of corn and pasture. . . . The number of proprietors diminished to such a degree, that an opulent man had often to traverse a distance of ten leagues before he could reach the habitation of a neighbour and equal. . . . While a proprietor amassed wealth so disproportionate to the wants of a single man, he cleared all the country he got within his grasp of that numerous and respectable class of independent cultivators, hitherto so happy in their mediocrity."—*Fall of the Roman Empire*. Sismondi.

† The reader will notice the past reference is to the corn-duties, and the continuous to such laws as those of entail, &c.

agriculture, and, consequently, of the peasantry. Were we to hint that this same cause in our land is a dangerous one for the nation, some wise people might affect to smile; but if they trace the rise and fall of nations which have formerly occupied a place in history, they will find, perhaps, that there is more truth in the assertion than they had at first supposed. It was from the country districts that the Roman legions came, who carried victory with them over the world. It was when the country districts could not continue the supply of soldiers to the army that the god Terminus commenced his retrograde march. It was when the rural population could not send men to defend the frontiers from Gothic aggression that the empire became involved in the troubles which ultimately sunk her under the wave.\* At this very time the *towns* were great and flourishing, the number of the population was large, but, as in all other towns, the inhabitants were turbulent and effeminate; and when the defences required their support, they were found to be utterly weak and inefficient. So will it be to the end of time; and if an enemy were at our gates, if great sacrifices had to be made both of persons and goods, it is not to our manufacturing population we could turn for relief. Love of country has not the same place in their hearts as it has in the hearts of the peasantry, and the history of the past corroborates the assertion.

Another most important question is, What are the causes that ruined Italian agriculture? One of the most powerful was the excessive *taxation* that pressed the cultivators down. "But a very little consideration must be sufficient to show that it was not, in the case of Rome, the increase of taxes taken as a whole, *but the decline in the resources of those who paid them, which rendered them so oppressive.*"† These revenues

\* For a masterly and elaborate discussion of the causes which conspired to the fall of Rome, see "Blackwood's Magazine," June 1846, or "Alison's Essays," vol. iii., p. 440. Although differing in many things from Sir Archibald, we cannot help admiring his great abilities as a historian.

† Ibid.

had to be contributed in the precious metals, and as the cultivators did not grow gold pieces, they behoved to sell their products ere they could realise as much as meet the heavy imposts that were laid upon them. It was when their markets were closed against them, that the heavy contributions which were laid upon them forced them to flee away. Population could not maintain itself against such fearful odds, and those provinces which formerly supplied the army with soldiers, soon became a great grazing country, where inhabitants were scarcely to be seen at all. The fugitive population found refuge in the towns, where they soon became the most successful in pulling down that building which they had formerly upheld. A man in the country is a patriot—put him into a town and you convert him into a disaffected person, who looks only to his own interest, and cares nothing for the interests of his country. If the Roman cultivators had been called upon only to pay tribute *in kind*, they might have managed to retain their ground by greater industry; or supposing that there were no markets open for their produce, they could still subsist in as great comfort as before. But the great difficulty was their having to find *money* to pay their taxes, while no market could be had where their goods could be converted into coin. Had there been such markets open, the cultivators could have paid taxes equalling what the land was worth in the shape of rent, but if they could not sell their goods for specie, it would be difficult to say how they could find it. Many nations can be pointed out who subsisted and attained great eminence without the use of money, or at least such a quantity of it as is now considered indispensable.

It was, therefore, the shutting out of the Italian cultivators from the great markets which compelled them to flee from their farms and lands; and how did this happen? Why, *by the importation of foreign corn*; and according to Alison, the free importation of grain\* into Great Britain must ruin its

\* "Such was the effect of a free trade in grain in ancient times. The

cultivators, and ultimately ruin the nation itself. So far from concurring in this statement, we aver that the circumstances are the very reverse. We declare (and our whole arguments on this subject go to show) that it is the protectionist party who are and have been sealing the doom of our country. Sir Archibald depicts the dire effects of the introduction of foreign importations of grain upon the Roman Commonwealth, and goes on to prove that the free traders are pursuing exactly the same course regarding Britain. This, it must be confessed, is a serious crime laid to the charge of our would-be protectors of native industry, and it demands the closest investigation. Now to the proof. Sir Archibald enters upon a long argument to show that it was not by the gratuitous distribution of corn in the Roman towns that the home cultivators were cut out. He estimates the quantities distributed, and asks, What are they when compared with the amount consumed? If the persons who received the largesses paid for their grain *in gold* (that is, supposing them to have become owners of it even by not labouring for it), what effect would such payments have had upon the *market price*? These gratuitous distributions were by no means so inconsiderable. Sir Archibald supposes they could not have fed more than one-fiftieth of the people. He instances the case of Rome, with a population of 2,300,000, and out of this number 150,000\* received daily rations. Now, instead of one-fiftieth, this is exactly one man out of  $15\frac{1}{3}$ . The error he falls into seems to be in estimating the free distribution over the whole peninsula, instead of confining the calculation to the towns as he ought to have done. It would not have been worth the pains of people residing at a considerable distance to have come into the towns daily to receive their ra-

free traders seem not insensible to these inevitable results of their favourite principles, but they meet them by describing such consequences as rather advantageous than injurious."—*Essays*, vol. i., 381.

\* Perhaps a great deal more—at least I have an impression that such was the case.

tions of bread; moreover, it is most likely that country people would all have a supply of food within themselves, as was the case indeed in our own country until lately.

But we propound, that granting the ruin of the Roman empire was brought about by the introduction of foreign corn, this was accomplished in two ways:—1st, BY GRATUITOUS DISTRIBUTIONS OF CORN.—As it was in the towns' market where the cultivators only could get specie in return for their home-grown corn, *the price* of it was reduced by the above cause. Suppose that one man in London, out of seven or eight, receives corn without price, would that have any effect upon the general price of that commodity? Would it tend to increase or diminish the price? Of course, if Italian cultivators could have supplied corn as cheaply as it could be introduced from other parts, they would have had their own place in the trade, they could have competed with that brought from Spain, Libya, or Egypt; but the more reduced the price, the less coin or specie could they obtain to pay their taxes with. We cannot say whether these distributions were accompanied with any harsh conditions, any humiliating terms, or whether they required a receiver to make servile homage to "the powers that be" of those days. Most probably an honourable citizen who could work for his food, would disdain to be seen among such a mob of discontented individuals. We have no account of the *quantity* or allowance which each individual obtained, whether it was sufficient for himself and family, or whether he required to supplement the allowance by purchases from the bakers. But to what system of government does this point? what *philosophy* in regard to the corn trade did it teach? Is it for a moment, indeed, to be supposed, that in a town where some hundreds of thousands received from government (as if it were their right) a free supply, those who *did actually pay* were to purchase at a HIGH price? Is it to be thought when such loose notions prevailed about the distribution of corn, if in London discontented grumblers got grain for nothing, that, there-

fore, all others would pay 50s. per quarter for what they consumed? It is not very likely, indeed; and had we no other light to guide us we might well conclude, *that the price of grain in the Roman market must have been very low.*

And this prepares us for the second proposition, viz., *That there was a forced depreciation in the price of grain.* This wicked interference with the channels of trade, appears to have been accomplished by two different methods, both producing the same disastrous result. Protectionists would make us believe (that is, if we did not know better), that the price of grain in the British markets is now *forced down*. That, however, is downright absurdity. All that can be said of it now is that the price is not *fictitiously raised* as it formerly was. There is a great difference between a forced height and a forced depth. It is possible to keep water in dry docks much below the sea level, and in wet docks considerably above it; but the *natural level* comes in betwixt the two, its level is forced neither up nor down.

The *bounties given for the importation of grain into Rome* must have greatly reduced the price of it to consumers. Such policy in regard to the inhabitants of the towns was just as bad as our own a few years ago, when we compelled our consumers to pay a fictitious high price. Both systems are equally bad, both of them are hostile to the operations of agriculture. "A large sum was annually employed by the state in purchasing grain in the provinces, and in transporting this supply to Rome, *where it was sold at a fixed price to the bakers.*" Thus it appears every method was taken to beat down the price of grain in the Roman market, and with what disastrous results to that commonwealth, and to the world at large, is now a matter of history. It is a dangerous thing at all times to tamper with the laws of nature, they have been formed by Infinite Wisdom; and as man's condition is adapted thereto, and his greatest happiness secured by his following out the rules of nature, he should never interfere in their operation; he may try his hand at improving upon them, and history



will point future ages to his self-inflicted punishment as the just reward of his daring presumption.

We cannot stop to moralise on the overthrow of this great empire, which we would fain do, but proceed to notice that its ruin was accomplished by the destruction of its agriculture. The diligent and independent cultivators were thrust out from their own markets, and, consequently, the peasantry were, as a class, destroyed. But is there any danger to be apprehended to our own peasantry from the introduction of foreign corn? No: for this reason, that agriculture in Britain is still REMUNERATIVE if not very profitable. This will be denied by some learned theorists, who proceed on the assumption that natural rent enters into the cost of production. They always look upon rent as being the *first* thing to be considered instead of the last. Of course, if they manage to get a large sum down under this head, they may make out a bad case against agriculture. They argue thus—"We would like to see what profit would be made by exporting wheat from England, raised on land paying 30s. per acre, &c."\* Now, there is no necessity whatever that land should pay such a rent per acre, it should be left to take care of itself, and if agriculture can be carried on, and be able to liquidate the public burdens upon land, society has no further interest in the matter. Science and common sense both concur in declaring that the current expenses of the farm, the farmer's own remuneration for capital expended and time employed, must be all settled ere one penny accrues for rent; but if this element be allowed to retain that high but false position which its owners have always dextrously managed to obtain for it, their incomes will be magnified, and the people will suffer. This may appear to be a severe view of the matter, and the question will be immediately started, Then how are the landowners to live? This is, methinks, a traditional question; the philosophy it indicates belongs to a remote period when the barons held a more than royal sway over their

\* "Free Trade and Protection."—(*Alison.*)

countrymen ; they were alike hostile to “ king and country ;” both, they considered, ought to be subservient to *them* in all things. The barons thought that every question should be thus treated—first, how it should affect *them*, not the country, did such a measure benefit or injure *them*, that was the first thing to be considered ; and, perhaps secondly, how did it affect their retainers, whom they viewed only as a part and parcel of their domestic establishment, whose highest duty was to fulfil his honour’s will—the king, “ *puir body*,” came next. If it did not happen to militate against the barons and their retainers, no objections could be made to his doing so and so, but he was only thought worthy to be an instrument or tool in the hands of the most powerful barons, who strove to get him into the hands of their party, either by moral or physical force, as in the Raid of Ruthven. It is a continuation of the same feelings, that, on the part of our landowners, makes them think that their rents must be considered *first*, every thing else secondary in the state.

Railways, it will be admitted, are a great improvement in the means of transit, and contribute to the comforts of all classes. Now, if you sit down to calculate the rate of interest upon the stock invested at *ten per cent.*, you will rise with the conviction that *railways cannot subsist* ; but, if they convey your goods quickly, securely, and cheaply, what have you got to do with the dividends to shareholders ? You would not be so foolish as to trouble yourself about that. You would say, *Let the dividends take care of themselves* : if the owners of them cannot do as much for themselves, let them suffer. However, it would be a pity if railways or land could not be wrought so as to secure the public charges ; but of this there is not much danger, so that all who have a stake in such property should be on the “ look out ” for their own interests—the legislature *dare not now do it for them*. It is their business to improve their ground if they wish to draw good rents : if this is not their object, they, and they only, must suffer. The country, at all events, is safe ; for, as other

markets are now open, the people can procure food at reasonable rates, independently altogether of these landowners. It lies now with the proprietors to act for themselves. *The agriculture of the country can be continued, and their lands still yield as much rent as will fully liquidate the public charges*; therefore, if they desire any thing in the shape of *profit*, they must exert themselves as much as possible. The entire surplus, after paying poor-rates, taxes, &c., is like *found money* to the lairds. They have the opportunity of raising it in amount, and at the same time improving their country; but, about the last and most futile method of doing so they will soon find is by *banishing industry*, which has been the principal service some great men have done, and perhaps for that very service they enjoy titles of nobility and state favours. The government of the country has not now to inquire whether the rents are large or small; the people understand matters better than they did in 1815; and legislators, in their official capacity, cannot now increase the dividends of railways paying only one-fourth per cent. per annum on capital account, so as to make it one per cent; nor could they increase the rent of land from one pound per acre up to five pounds where it has not been the case hitherto.

From the pernicious interference of our legislature, the population of Scotland have suffered most materially. Let us now examine the operation of the importation-duties upon the *PEASANTRY of Scotland*.\*

If there be one thing more than another that old Scotia has to boast of—if any class has contributed to raise her to

\* "I remember to have heard it asserted by L. Volusius, a rich old man, who had been consul, that that estate was most advantageous to the landlord which was cultivated by farmers, natives of the country, and born upon the lands; for these are attached to it by a strong habit from their cradles. So, indeed, it is my opinion that the frequent letting of a farm is a bad thing. However, it is still worse to let one to a farmer who lives in town, and chooses rather to cultivate it by servants than by himself. Safferna used to say, that from such a farm a lawsuit was got in place of rent."—*Columella*, lib. i., cap. vii.

the place she now occupies, that class is the splendid peasantry which formerly were scattered over the length and breadth of the land. As already noticed, our country is not naturally rich ; but, with such morality as was taught in the cottars' houses, and the thrift and industry that were ingrained into the young people, a great deficiency in temporal resources could be made up. We may find people more industrious ; we may, and no doubt now see them far excel our Scottish agriculturists in rearing crops ; but, as a whole, perhaps no country in ancient or modern times could boast of a finer peasantry, a more moral, hardworking people, or more patriotic, than what there was to be met with in Scotland some fifty years ago. But a mighty change has taken place—that excellent and worthy class are now comparatively rare—only here and there is a specimen to be seen of the better times ; but we sincerely hope they will soon return. The class that supplied the best soldiers to our armies is, like that of the Roman cultivators, crushed and exterminated, and the brightest jewels in the crown of old Scotland are banished, like felons beyond the seas, to “countries not inhabited.” But we must be very cautious even in mentioning the name of “cottar.” Any one who alludes to such a class in company must make up his mind to be sneered at, and called fifty years behind the present enlightened age. In the factor's admirable management they are doomed as a class ; and our lairds (with some excellent exceptions) look upon them as they would upon a horde of paupers from an Irish workhouse, who had “squatted” on a corner of their property. But where do we learn this lofty contempt of our own brethren ? Is it patriotism that tells us to hate our fellow-countrymen ? Is it a remembrance of their sons having fought and bled in the cause of liberty and of their country, that causes us to condemn the Scottish blue bonnet ? We often think that, if our lairds and factors had some experience of Irish farmers, they would bear a more respectful and loving regard for the well-disposed peasantry of Scotland. And who has shown us such

an example of hatred to the humbler classes? Is it she whose dominions encircle the globe, on whose empire the sun never sets—who, to the prestige of hereditary honours, adds that bestowed upon her by all her subjects, in whose affections she is enshrined, and whose warmest prayers are offered on her behalf? Surely not. No sovereign, whether in ancient or in modern times, ever had a crown studded with brighter jewels, the brightest of which is the love of her people. No sovereign ever showed a more earnest desire for the happiness of her subjects. *She* does not consider it beneath her royal dignity to talk of the poor; her name is always foremost in the list of charitable contributions; and she is the patroness of every scheme for the amelioration of the lower classes. Methinks the peasantry of Scotland are not despised by her; she scruples not to trust her royal person in their hands; and she is not ashamed to visit *them, aye, even the despised cottars*, as those in the neighbourhood of Blair in Athole and Balmoral are able from experience to testify.

Or was it a high contempt for our peasantry which Chalmers preached—he of the large heart and gigantic intellect—one like whom (as a savant has declared) the world only sees in several centuries, and whose name, it has been declared, will give character to the age in which he lived? In no place was the Doctor more at home than in a country congregation—nowhere, as he well knew, could he preach the *substantials* of religion with greater appreciation than to the Bible-reading peasantry of his native land. And what was his *beau-ideal* of a happy country? or what did he esteem or respect more, or consider to reach higher in the scale of humanity, than a well-conditioned, Bible-reading peasantry?

Amid the gloom of the northern darkness a bright light appears, shedding a lustre all around: it is the intellect of Burns—Scotland's Milton, as he has been called. And where does this gifted spirit seek to dwell? where is it that his affections rest? what is the class whose applause he most covets? Is he a waiting sycophant at the tables of the rich? Does

he ask their favours or their gold in return for a mercenary homage? Nay; he is proud and independent!\* And none does he sympathise with more, or respect more, than the homely but now despised cottar.† The same remarks will apply to his successor, Robert Nicoll, who sang sweetly by Oridie Braes; and if one thing be more observable in his poems than another, it is the regard he has for cottar folk, and the worthy ones that dwell quietly among them:—

“Wheresoe’er prayer and praise arise,  
Ere toil-worn men can rest,  
From each humble cottage fane,  
*Is the place that I love best.”*

Or where does this Robert the Second‡ pour forth his poetic strains more purely from the fountain of his heart, than when he sings

“Of the toon whar I was born?”

As for the two Roberts (viz., Burns and Nicoll), were a man to class them according to their habits and their wishes, he would just call them *cottar* folk—ranking them among the class which most people, especially “improvement men,” would be ashamed to speak of.

Most young people of the present day are hardly able to define the meaning of the term Cottar; but, for their information, we may state that it denotes a householder in a country village, or “toon,” who rented his house and acres from the farmer, *not* from the laird. Thus, a man who keeps a horse, and has a small portion of land, is called a farmer;

\* “I was bred to the plough, and am independent.”

† “In the course of the spring Burns called on me once or twice, at my request, early in the morning, and walked with me to Braid Hills, in the neighbourhood of the town, when he charmed me still more by his private conversation than he had ever done in company. He was passionately fond of the beauties of nature; and I recollect once he told me, when I was admiring a distant prospect in one of our morning walks, that the sight of so many smoking cottages gave a pleasure to his mind which none could feel who had not witnessed like himself the happiness and worth which they contained.”—*Dugald Stewart*.

‡ See a late number of the *North British Review*, on Burns and Nicoll.

and on his farm there is a house and a large garden or small farm, varying in size, on which a cow is sometimes kept. The tenants of this small pendicle are spoken of by the farmer as "My cottars!" These houses are called a "*toon*,"\* and vary in extent from one house up to thirty or forty. But, as Nicoll laments, few of these places are to be seen now, and fewer they are getting every Whitsunday term. We are delighted, however, to be able to say, that we know of at least one specimen of the olden times; and as it is at hand, within one hour's walk from a station on the ——— Railway, those who are desirous of proving the inferiority of the cottar tribe and small farming, may have ample room to do so here; that is, if they can. The district is purely lowland; and it is perhaps the only specimen we know in which the manners and customs of the last century remain pure, without almost any adulteration. There are three different estates on which they still remain; and although great numbers of similar villages† have been cleared, yet these still remain. We shall select one estate, which we shall misname Glentrojan, on which the titled owner delights (very much to his credit) in keeping his farmers and cottars comfortable and happy. The farms have been possessed by the same families for generations; and a few stray names have been introduced by the heiress of a lease bestowing her hand upon an unco' lad, perhaps from a "neebor toon." The Trojans are reputed wealthy, and it accords with our knowledge that such is the case. They have very large sums on interest receipts, deposited in sundry lairds' "*hands*;" and in the newspapers you will see their names flourishing as partners in the county banks. It must be admitted, however, that they are not nearly so far forward

\* Recipe for making a "*toon*."—Take a few divats, and build them up on end; add a few rigin' trees; leave a hole for a window, another for a door; get a cow, collie-dog, two or three hens, a bottle with some mountain-dew in it, and you have a "*toon*."

† On one farm there, which we know, forty families lived respectably and comfortably until some thirty years ago, when they were turned adrift to make room for *one* family.

in farming as they might be. Many new inventions could be profitably introduced; still, by dint of the most rigid economy, and the greatest perseverance, the Trojans' men are never behind in their rents by a single day; and not only so, but they generally manage, even in these bad times, to augment their bank-deposits. It is wonderful what crops they manage to raise by cleaning and stirring their land well. They tether their cattle on the grass in the morning, and at mid-day they go out to "flit them:" this saves the trouble of herding, and keeps the cattle from treading down what they do not eat. They keep a great number of milk-cows, which gives them a large supply of manure, of which they are *particularly careful*. They do not generally drive it out in the winter season, but keep it fresh for being laid on the fields directly from the dunghill heap. With the valuable properties of the liquid manure they have been long acquainted,\* and they put their knowledge into practical operation. We could mention another circumstance in proof of their thrift in the use of manure; but, lest our statements should be thought too strong, we shall keep it in reserve. It may be mentioned, however, that, instead of its being a step behind, it is one considerably in advance of our present theory of manures. From the care and labour they bestow upon their farms, their system is more like garden cultivation than the present style of farming;

\* The Romans seem, from the following quotation, to have paid great attention to manures:—"Likewise there ought to be two places for the dung: one for receiving the new dung from the offices, which is preserved in it for a year; and another for keeping the old dung, from which it is carried to the fields. Both of them, like fish-ponds, should be hollowed with a gentle declivity, and paved in the bottom to prevent the moisture from getting away; for it is of great importance to preserve the sap, that so the dung may preserve its strength, and may be putrified by continual moisture; so that if any seeds of briars or grass are thrown into the dunghill along with the straw, they may be destroyed: therefore skilful husbandmen quickly carry off whatever dung is turned out of the sheep-cots and stables, cover it with grates made of twigs, and neither allow it to dry in the winds nor be withered by the rays of the sun."—*Columella*, book i. cap. vi.



and as there is a burn passing through the place, you will see that, if opportunity offered, *irrigation* could be carried on most systematically. This very ancient and profitable expedient is now perhaps less used than it was thirty or forty years ago. The Trojans have it on a small scale, and they shear four cuttings of grass annually from the watered portion.

*Diligence and perseverance* particularly characterise the Trojans; they may be seen at work long ere others are astir, and till nine o'clock at night they are busy cleaning or sowing their land; besides, they *time their work*, a thing which large farmers cannot well accomplish. Thus, in a shower they immediately come in, and they find always something to do in the house; this enables them to get on with their work, and preserves their health and comfort at the same time. When the day is like to continue rainy, the cows are immediately taken in, and we have heard it remarked, that they are better cared for than ploughmen in the Carse bothies. The cottars who get their acres ploughed by a farmer are generally employed at out-door work in other places. When harvest-time comes, they assist their neighbours at shearing, and thus pay back the horse labour. Many of them are masons, slaters, ditchers, dykers, and they go long distances to their work. Thus, we have known an old man nearly seventy walk a distance of six miles to and from his work every day, and that for a considerable part of the year; he hardly slept at all, for even when at home he was engaged in digging his "kail-yardie," which he kept in "good order and well conditioned." Other two individuals may be mentioned as perhaps more like the average. These two men travelled daily a distance of four miles to and from their work, and that for a long period, one of them for nearly twenty years; he was always first on the ground, and it is stated, he was never a day absent from his work. In rough weather, and in the winter time, the cottars are not compelled to go to out-door work, many of them can do a little at the

loom, and thus all their time is turned to good account, without being harassed or borne down by hard labour. Notwithstanding all the outcry against the cottar system, we have seen it attended with the most beneficial results both here and in other places. We know two different places, the inhabitants of which are engaged in the same calling—that of fishermen. They are situated within a few miles of each other, and have the same opportunities of doing well. In the one place, the inhabitants live in ignorance and sloth, they are utterly devoid of thrift; when they get a good “take,” the proceeds are dissipated in drink, in fresh butter and newly-baken loaves. Hardly a female among them can bake a bannock—they marry at the age of sixteen—enter their trade at eight, and are old exhausted men by thirty. Their houses are of the most wretched description, a hotbed for fevers of all descriptions, which are always among them, occasionally breaking out among the more prosperous of the population. When a storm comes, so that they cannot get to sea, they are in absolute poverty and starvation. Should any accident befall their lines or nets, they must throw themselves on the mercy of the generous, never having husbanded any savings against a day of adversity. On the other hand, their neighbours are tidy, cleanly, and thrifty, they are better mannered and better educated. Their houses are neat and comfortable, and they live well at all times; they are saving and industrious, and it is whispered that after a good season they have considerable transactions with the banks. They rear pigs in considerable numbers, but they keep them in *styes*, not in their own houses like their dirty neighbours. Their work is accomplished betimes, and they marry when they feel themselves able to maintain a wife comfortably, acting in this manner very differently from their other friends, who sometimes take home a wife without having sheets or blankets to put on the bridal bed. And to what is the striking difference observable in these two communities to be attributed? To no other reason plainly than this, that the one party have

attached to their homes a *small patch of land rendered very productive\* by industry*; in other words, they are *cottars*, while the other clan are not. This is the only cause to which the vast superiority of the one party over the other has always been attributed, and we venture to say that no other cause can be assigned. Further, there is no reason to suppose that a like system would not be attended with like gratifying results wherever it should be tried, in fishing communities or in manufacturing villages. Land seems the natural element for man's industry, and the more he is excluded from it, the more debased and degraded his habits, manners, and feelings become, and the more are the animal appetites developed. If the cottar system were placed under some regulations by a good landowner, we have no doubt now that it would be better for himself, and infinitely better for those in the humbler ranks. All young people among the Trojans are trained to work, boys and girls; and when compared with children brought up in villages or in cottages, their superiority is very apparent.† Now-a-days, it is difficult to find a female servant who is a good *worker*. Since the cottars have been expelled from the land, and thrown into small villages, country female servants are very little better than those brought up in towns. The numbers, too, are so much fallen off, that their wages have become high in price, and the amount of service done is much less than formerly. Should the present system of things be carried further out, this scarcity of good workers will be felt as a great inconvenience. Large farmers well know

\* "Each cottar had some land, and a yard for greens. The farmer was bound to labour their land, and drive out their dung after his own was done, and it sometimes happened, that the cottars got a better season for sowing than the master, and often had better crops, their ground being commonly well dunged, so that it became a proverbial saying of any thing remarkably good, that it was like a '*cottar's ridge*.'"—*Young's National Improvements upon Agriculture*, 1785.

† One foreman on a large farm was brought up in the glen, and as exemplifying his industrious and persevering habits, he rose at two o'clock every morning, until he put all the turnip seed into the ground ere the other servants were up, thus pushing forward the work most vigorously.

the difference of a girl brought up in a cottar "toon" from one trained in a weaving community or a large town. They know well which of the classes is most trustworthy and thrifty.

*The checks to population* are put into active operation among the Trojans, to such an extent as might have pleased the redoubted Malthus. Their small farms are seldom or ever subdivided, consequently there is not room in one house for two separate families. If the eldest son wishes, he may have the farm, but he must not turn his mother and sisters adrift. Should he be desirous of marrying, he must look out for some other way of providing for his own household, and the next son takes the reins and keeps the place until his sisters get married, when he himself may then marry; but no desire for early marriage ever manifests itself, they are not particularly troublesome on that point, and their courtships are generally protracted, and promises are most strictly kept. As illustrative of the feeling against early marriages, it is frequently said, "Aye, laddie, tak ye time; yer mither's the kindest wife e'er ye'll get." Whether or not it be for the purpose of restricting population, as most likely it is, yet it is a fact, that marriages are postponed to a much later period of life than is the case in other communities. Their families, too, are not nearly so numerous as those in a weaving population not far distant from them.

*Pauperism is unknown among this small fraternity.*—As soon as a shilling makes its appearance in the "toon," it is forthwith declared a prisoner, and there it remains, unless it be carefully locked in the county bank for greater security. Few among the people are destitute of hoards, which keeps them off the parish in their declining years. This is a great contrast to other populations, who are every day becoming less provident in their habits and manners. Some years ago it seemed a fearful calamity to be put upon the poor's roll, it was very repugnant to those feelings of becoming independence which are fast dying away. Men now spend their week's wages as soon as they are received, so that when old

age overtakes them they are destitute ; they look upon the poor's allowance as a matter of right, and lean upon it, so that they are getting every day less thoughtful about frailty and its many wants. Such is not the case among the Trojans, who could well afford a lesson to others who have more pretensions than themselves, but much less of real sterling worth. Very little money goes out of the neighbourhood in which it is made ; with a little assistance in raw materials from the laird, they manage to keep their buildings in tolerably good order ; they thatch the out-houses, and by watching them carefully, they contrive to get along very comfortably. This little community keeps its own tailor, shoemaker, mason, carpenter, &c. And they have had their own poet too,—one of whom Scotland may well be proud, and whose pathetic songs—the genuine effusions of an honest heart—will be sung wherever the Scotchman treads ; they will enliven him in his wanderings on a foreign strand. No spot on earth was the bard fonder of than the place now mentioned, it was there his early days were spent, and it was to its happy meetings and smiling faces that his thoughts continually reverted. It was the substantial honesty and the sterling worth to be found there which he fondly admired ; and, reader, should you love to see the old Scotch agricultural system carried out—should you wish to see society in its primitive patriarchal state of simplicity—should you delight to roam over those scenes so well depicted by one of Scotia's most gifted sons—go and pay a visit to the Trojans, and you will be both gratified and instructed.

*Morality and religion* are in everyday practice among this little community, and being removed from scenes of vice and debauchery, they lead quiet and peaceable lives. Few cases of open immorality occur among them ; they are seldom or never seen in an ale-house, and are well-known in the neighbouring villages for their unassuming piety.\* Should, how-

\* There is an abandoned profligate who strolls the country, and such characters are not, generally speaking, very fond of praising religious

ever, any little inconsistency appear, they deplore it, and they talk over it for weeks to come; thus the standard of good behaviour is kept very high with the Trojans. The servants are treated as fellow-mortals, and receive their food exactly of the same kind as their master does. They are carefully looked after, and should a herd-boy be behind in his learning, he is taught to spell and read in spare hours. On Sabbath night they are called in to their lessons, and the good old Scotch plan of *catechising* is still kept up; afterwards the lowly roof resounds with the voices of prayer and praise:—

“The saint, the father, and the husband prays.”

Should any of the young folk be seen trifling on Sabbath, some of the old people will give them the advice, “Ye wad be better employed at readin’ your buik.” “The Book,” along with “the Scotch Worthies,” are almost the only volumes which they read; but they read them to profit, as, doubtless, will be seen many days hence.

Such is a description of a *happy people* living under the old system, and to the eye of the moralist or social philosopher, it presents a picture which he may contemplate with unmingled delight; it is a fair scene in this world of wo; it is, when compared with our bothy system, like the tuft of vegetation which the traveller found in the desert of sand; and it calls up to the Scotchman feelings of regret, when he remembers how many similar scenes could have been witnessed over the length and breadth of his native land. Were we disposed to be censorious, there is, no doubt, much that could be found fault with; but, upon the whole, the system is far superior to that of extensive farms with one despotic master, and many degraded slaves. But it depends upon the point from whence the observation is made. Were we to look down upon the earth from the skies above—were we to look

people, yet he speaks most respectfully of our friends, and refuses to hear a word said against them.

back from a deathbed, when the world is seen in its true colours—then our decision would be no doubtful one. Well might Burns sing of such places :—

“ From scenes like these old Scotia’s grandeur springs.”

There is another district with which we are well acquainted, and we knew it before the “clearing” system was introduced. The people lived free of care, happy and contented; and, like those already described, they were well known at the bank offices; that class of respectable people called “depositors” was very thickly sown, for as their rents were small, they could, by dint of frugality, lay by a little yearly. They were very strict in their morals, and bankruptcies were very uncommon, indeed hardly known. One remarkable feature which this glen presented was the extraordinary number of young men in it who studied for the liberal professions. If, in the palmy days of the Roman empire, “every rood had its man,” so here every family had among their number a minister, doctor, solicitor, or, as was facetiously noticed to me, “at any rate a dominie.” How these residents managed to obtain the necessary finances is more than we know; but, taking the superficial area of the district into account, it is really astonishing how many were thus thrown up out of the lower ranks to the higher grades of society. Under a late clergyman they flourished prosperously; he was a highland minister in the better sense of the term; he loved them with a sort of fatherly affection; he wrote all their wills; he acted as arbitrator in every dispute among them, so that the lawyers got little or no trade; and he was their counsellor in every difficulty. Many of the former inhabitants are now in Canada, to which most of the outed farmers and cottars emigrated, and good accounts often come from them. So well disposed and peaceful were the dwellers of the glen, that commitments for crime were unknown, and the parish funds, under good economy, increased to a very considerable amount of money.

A great deal has been said about the Highlands being such a drag upon our social advancement. Some melancholy cases have absurdly given rise to a general condemnation of the whole; and a stranger would fancy, from the descriptions given of the Celts, that they are all a lazy, ignorant, despicable race. For the extensive section of country with which we are acquainted we shall not be ashamed to answer. Take a stretch of twenty miles from a certain town, famed of yore, into the Gaelic-speaking districts, and perhaps in the British islands a more industrious population will not be found. All are well educated; and, in a section where the farms are small, perhaps there is not one district in the British empire that can surpass it for education. Lately we stood upon a knoll, in a district where our forefathers dwelt, and we could not help admiring the fair landscape stretched out before us. Towards the east is the village church, reflected in the sullen pool hard by, and standing out "amid Alpine dwellings low." Trees feather the mountain-tops; cultivation seems pushed up to the highest ridge of the hill; and it would be very doubtful indeed if large farming could accomplish such a feat. Look round at yon moor: you will see grass smoother and softer than the blooming heather which seems bounded by a line. Look more narrowly, and you will be able to trace the ridges, which demonstrate beyond a doubt that bread for man was formerly raised there. Inquire, and you will find that, some twenty or thirty years ago, there *were farms* up there, and farm-houses; aye, further, you will be informed that some of the best crops known in the county grew there. How comes this change? One would have fancied that, under the benignant reign of protection, the very rocks would have been pounded down to make soil. But this marked transformation in the aspect of the country is no rare sight. Game now occupy the grounds which produced food for the human race; and round the same district thousands of acres could be pointed out which are in the same state. Have you any fancy for seeing good-looking men? because, if you have,

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you will see none better than the people hereabouts. Families could be pointed out that for handsome men are nowhere surpassed. Burns sings the praises of the lads of Ettrick Shaws and Yarrow Braes; but we venture to say that they would never stand a comparison with braw John Highlandman—the braw lads o’ Gala Water would have no chance with the splendid fellows you may daily see at work in this vale: they are remarkably healthy, and the old men above seventy years of age are *very numerous*. Perhaps, for agility and strength, for hardiness and action, you will not find better men any where; and a considerable number of the best specimens of the human figure could be picked out at random from among them. They are very romantic and warlike, and great lovers of their country, which they are both able and willing, if need be, to defend.\* Many excellent soldiers, who fought in the last war, were recruited from the strath; and we remember the great muster of Waterloo men that formerly turned out on pension-day. These men were always lambs at home, but lions abroad; and their sword was ever ready in the cause of their country. A village can be named, which looks one of the neatest and tidiest you will see in Scotland, and the crops raised for some years back in the vale are truly astonishing. The people are by no means lazy, as the cleaning and stirring of their land will bear testimony to. Strangers often make the same remarks, and, if need be, we are able to substantiate what has now been stated.

Thus have we given the foregoing descriptions of the Scottish peasantry simply and truthfully—not as if they were fabled actors of some unknown time, but as they appear in sober reality. Small farming is there displayed among them,

\* Some time ago, when fears were entertained that Louis Napoleon purposed invading England, I met Alaster M’Ildonich, a briak, sprightly, young Highlander, who speer’d the news:—“Did ye hear o’ the French comin’ o’er?” “Ou, aye,” said he, “they’re crackin’ about it.” “How many men could ye turn out o’ your toon gin siccan a thing wad tak’ place?” “For my neebors,” replied Alaster, “I’ll say naething; but I ken o’ ane wha wad soon be at them.”

and judges of agricultural matters would not hesitate to say that they are not so very far behind as some people would fain allege. Such is the class that our lairds have been so desirous of ridding the country of—such are the men whose humble ways are turned upside down; and the case of the Trojans is analogous to what Scotland generally presented some fifty years ago. These are the men whom our iniquitous law-rules\* sweep off the country, and cause their humble cottages to be torn down, that bothies, with all their vice and villany, may usurp the place where silent worth found a shelter and a home. But bad as these laws are, they would not be so pernicious in their operation if there were any patriotism still existing. Landowners profess great regard for their country; they seem most anxious for its increase in wealth, although they take a miserable method of accomplishing that end; but, as regards patriotism, they as a class are to a melancholy extent destitute of that quality: further, they are actuated by the most malevolent feelings towards our splendid peasantry, and seem desirous of blotting out their name from their native land. Is it our duty to patronise by special enactments such *amiable* feelings? Let them go on, and soon they shall feel the effects of their policy; but let us wash our hands clean, and let us be no longer partakers of their sin—a course from which we have already suffered as a nation.

We have now demonstrated how the corn importation-duties convert small farms into large, and consequently thrust the population out of the rural districts; and if time per-

\* The interference of three other law-rules will be now seen in their true light as great and high contracting parties against our peasantry. This is more pernicious than even their hindrance of production. We are bound to submit that there are two other operating causes, which we feel called upon to name. They are the poor laws, which, if made general over the land, would take away the temptation of ridding particular estates and parishes of population; the other cause is the voting qualification. Lairds endeavour as much as possible to get small farms erected into one, so that from the whole at least one vote may be obtained.

mitted we could bring forward still more abundant illustrations.

Let it not be imagined that we attempt aught so romantic as the advocacy of a purely pastoral state. Some prefer the town, others the country—let each please himself; all our object is to condemn the *overgrowth* of towns, and the *forced* depopulation of the landward parts. Let us suppose that the towns are the heart, yet it is not necessary that this vital organ should be enlarged beyond its proper proportion to the rest of the body. It is necessary for us to have that organ, but as soon as it is unduly enlarged, sound health is gone. And so it is with the body social. Towns are necessary, but when they are unduly enlarged at the expense of remote parts, the social frame cannot be in a healthy state.

Much attention has been directed to the subject of the increase and decrease of population, but still it must be admitted that the interests of the people have not been consulted directly. A fancied increase of production has allured statesmen, legislators, and economists away from primary interests to those only secondary. They have been consulting and scheming how THINGS could be increased, and by fallacious reasoning they have argued, that what must develop the resources of the country must necessarily be for its true good. Such, however, is not the case. Distribution is fully as important as Production, and unquestionably it must now receive more attention. The increase of goods certainly sounds well, but if we consider that such increase goes, not to the benefit of society, but to the aggrandisement of a few individuals, such increase is not desirable, it confers no benefit upon society, but reasons might be adduced to show that such increase to a few is disadvantageous to the whole. Let us then consider what measures are best for POPULATION, and it will be found that by attending to this primarily, a real and substantial increase of THINGS must take place; whereas studying *things primarily*, and endeavouring to promote an increase in them, is only attended with disappointment and

vexation. Such high-sounding terms, however, form an excellent pretext for designing parties getting their individual views carried out; they want no increase upon the whole, they only wish to abstract a larger portion than their share from the general fund. POPULATION must always be considered first, and *mere materials* will fall into their proper place, and subserve the interests of society instead of society subserving them.\*

In all ages, the peasantry have been the great defence of nations, faithful and true they have loved their native country, and have always been foremost in its defence. Of what avail are war-ships, cannons, fortified towers, unless there be a population who can employ them? † “Upon the state of the population,” says Sismondi, “must repose every system of national defence.” The state of the population is certainly not improved by sweeping the inhabitants from off the country districts to foreign lands, or into the dungeons of our large towns. Patriotism is the native feeling of Scotchmen, but how can men be always fighting for land in which they can obtain no interest? How can you expect men to shed their blood for what recent legislation has declared to be foreign to them, in which they have no right, and from which they are virtually excluded? If Scotland be not for Scotchmen, but merely a lump of land belonging to a few individuals, how can Scotchmen be asked to fight for its defence? The disaffection of many operatives in large towns is not traceable to themselves alone, but to those men who proclaimed the rights of property above the rights of men—

\* This rule holds good in respect to individuals also; properly speaking, no man can be benefited by studying the interests of his property as primary, and what concerns his health, manners, or morals as secondary. It is possible that by such a course he may gather some gear, but what gain is there if he shall have broken his health, or what avail if he should be rich as Croesus, and yet have a troubled conscience?

† “Walled towns, stored arsenals and armories, goodly races of horses, chariots of war, elephants, ordnance, artillery, and the like, all this is but a sheep in lion's skin, except the breed of the people be stout and warlike.” —(Bacon).

*they* are the real offenders. Ill feeling in the towns is only one of the results of this strange conduct. Was it to please and gratify the chief that clansmen fought? Nothing of the kind; they loved him greatly, no doubt, but they had other interests too, they had their properties or farms, which they fancied belonged to them, as securely as the chief's property did to him. Kind as men are sometimes found to be, it is not according to human nature that men should do all for others, and little for themselves. Such is particularly the case when those "others" not only do *not* reciprocate kind offices, but on the contrary do all in their power to humiliate and oppress the patriotism that has sprung forth in times of danger. Scotchmen have never been behind at the call of their country, but should they in any future emergency hang back, historians will acquit them of all blame. The peasantry of Scotland have fought nobly in former times—they know what thanks they have got for their patriotism. There is, perhaps, no greater blunder that a government could be guilty of, than tampering with the people. The lowlands of Scotland have to a great extent been deprived of their brightest ornament—an industrious peasantry. This has roused many who cared little for highland clearings, and it is strange that the same causes have induced both highland and lowland clearings. *Government, by creating a fictitious price for wool*, caused "the highland gentry to make the discovery that the rearing of sheep was more profitable than the rearing of men."\* By government creating a false value for corn, lowland rentowners have made the discovery that the growing of corn was more profitable than the rearing of men; and thus the bard is furnished with a theme for his laments, and large towns are presented with a mass of pauperism. It is melancholy to think how much power our lairds have had over the population of Scotland. We may be high in some respects, but we are very low in civilization when such things can be tolerated for a moment. "They no sooner," says Burton (of

\* J. H. Burton.

the highland gentry), "adopted the opinion, than they applied it to practice, and thousands of families were turned off, and hundreds of thousands of acres cleared. The petty cottars were, of course, very ill fitted to accommodate themselves to other occupations, and thus they spread themselves over the rest of the country, became *centres of pauperism in the large towns*, and besides their own sufferings and privations, threw upon strangers a great part of the burden of their support, while the *whole advantage of the change accrued to the landlord.*" We have already stated that these people have as good a right to pay rents in Scotland, as the rent-owners have to receive them, and perhaps a great deal better; but it is monstrous to think of the extent to which POPULATION was by them caused to expand. And then by the *wool* laws, which were solely under their power, they, for the sake of some ill-gotten gain, disorganise the whole country! Notwithstanding all the abuse the Irish peasantry have received from their fancied oppressors, they have not received one-fiftieth of what has fallen to the lot of our population. Nowhere probably in history is mention made of a class of men who have derived greater advantages from the industrial efforts of the people, and yet have trampled upon, banished, and abused them, more than Scottish lairds have done for the last eighty years. Perhaps in no other country in the world could such things be done with impunity. It is so far creditable to say, that the populace never almost in any case retaliated upon their oppressors; but, on the other hand, it is a foul reproach to Scotchmen that they have allowed or tolerated under any circumstances such desperate tyranny. Poets feel a pleasure in contemplating the pure patriarchal or celtic system before it was poisoned with Saxon feudalism, as it has been for a hundred years; that is, before the highland gentry were smitten with the Saxon love of gold. In those days money was despised, they had another test for a man than gold; instead of the superior looking down upon those placed below him, as so many producing machines, like Carse

ploughmen or factory workers, he looked upon them as fellow-mortals, as brothers of a great family, and as his own dependents, whom he was bound to see not only right but comfortable. He took an interest in all their affairs, as we could well illustrate, and he had a kindly feeling and interest in every individual of his clan.\* The chieftain was called the Fer'tdhie and his lady the Perntdhie, or the good man and good woman of the town; thus, Sir Donald M'Donald of Ballintuin was called in common talk, "the Fer'tdhie of Ballintuin." This term has now, however, become a by-word of reproach; any man who affects the airs of a gentleman is called by it—a strange revulsion of feeling. It is a pleasing duty to record that there are still some remains of the better feelings that formerly prevailed; there are yet some scions of the good highland gentlemen who really feel an interest in their tenantry; they are not over scrupulous about rents,† and they take an interest in all the affairs of their people, and forward their views by every means in their power.‡ And assuredly such kind offices were not without their reward. Few among them would have hesitated to encounter any fatigue or danger to serve them, a duty which they felt to be their highest honour. § The chief's health

\* The old lairds of Glenshee were celebrated for their feats of strength, and I have heard more of their history in other countries than our own; they must have been giants, and one of them was said to have measured a full yard from shoulder to shoulder. A little girl belonging to their clan was sent to service in the county town, where he noticed her on the street. "Do you know me," he asked. "Yes," says the girl, "ye're Glenshee." "Well," added the laird, "if any one should dare to touch you here, *let me know.*"

† We could tell of one laird who received little more rent than the tenants chose to pay him. One tenant sat all his life on the property, and all rents were in arrear; but on such properties there were no "clearings."

‡ On account of some family difference, a tenant came to consult us professionally about his affairs. Knowing about the laird, we asked him what he would say if he heard of such disputes; he told us that they had referred the matter to him, but some of the parties had resiled from his settlement, and he was now ashamed to meet him.

§ Tradition tells of two cases somewhat similar, which are substantiated

and happiness was the burden of their song, his faults were unnoticed, and any accomplishment that he was possessed of was magnified to a high degree. His very honour was safe in their keeping—

“Stranger, I am to Roderick Dhu  
A clansman born, a kinsman true;  
Each word against his honour spoke,  
Demands of me avenging stroke.”

If lairds cared little for the prosperity of their country, if they had no gratitude to the men whom their fathers delighted to love and honour, yet they might have had some wish on their own account to have around them such a wall of protection. It is not at all unlikely that ere a few years pass they will be glad to have them back again; lairds have neither corn nor wool-duties for a revenue to them now, and should emigration go on at the present rate, people will not trouble lairds so much, and lairds will begin to feel the consequences of their tyranny. This has not escaped the notice of Sismondi. Speaking of French tyrants of former times, he says—“They could not understand that a country cannot be rich when it ceases to furnish consumers, when it no longer contains a nation to feed; they fell into the same error into which we have seen the lairds of the north of Scotland fall in our own days.”

The inhabitants of towns have never been characterised by such kindly feelings to their superiors; they are less polite and respectful, and certainly they are less patriotic. This has been always the case, and it will be so till the end of time. “It is certain,” says Bacon, “that sedentary and within-door arts, and delicate manufactures (that require the

by tolerable evidence. A gentleman belonging to Badenoch went to Edinburgh to attend to a cause in the Court of Session; he found that he had left a paper of importance behind him, and the peasant volunteered his services to fetch it. He went one day and came another, performing a journey of upwards of two hundred miles in two days. For a similar purpose swift Peter went from Lude in Athole to Edinburgh and back in one day, that is about one hundred and sixty miles.



finger rather than the arm), have in their nature a contrariety to a military disposition." "Till then," says Sismondi, of the barbarians, "they had seen nothing of the Romans but soldiers; but when they suddenly penetrated into the midst of these magnificent and populous cities, at first they feared they should be crushed by a multitude so superior to theirs; but, when they saw and understood the cowardice of the enervated masses, their fear was changed into the deepest scorn; their cruelty was in proportion to these two sentiments, and their object was rather destruction than conquest. The population, which had been thinned by the operation of wealth and luxury, was now further reduced by that of poverty." Such were the melancholy consequences brought upon the Roman empire by tampering with the peasantry.

It may be quite true that the peasantry of Scotland had overgrown to a great extent, and that they were not so industrious as they ought to have been. Allowing this statement to have its full weight, does it not form an argument in favour of our case rather than against it? We speak advisedly when we say that no subject has better claims upon government than population. On no field could its operations have a more beneficial effect; no seed could have been sown that would have yielded better returns, and been more satisfactory in every respect. Government can tax its powers to preserve, to multiply game birds and animals. If our population were degraded, would government not have been better employed in seeking to elevate it, rather than in pandering to vitiated appetites of cruelty?

It may be that war will never again desolate Europe, but still we would not be the worse of having at hand a hardy, industrious, and frugal peasantry. We may not be called upon to keep up a martial spirit among our people, similar to Duke Rollo, who provoked wars with neighbouring nations to keep up the military spirit of his people; yet there is no more sure defence than a loyal and faithful peasantry. "Herein the device of King Henry VII. was profound and

admirable, in making farms and houses of husbandry of a standard, that is, maintained with such a proportion of land unto them, as may breed a subject to live in convenient plenty, and in no servile condition; and to keep the plough in the hands of owners, and not mere hirelings; and thus, indeed, you shall attain to Virgil's character which he gives to ancient Italy—

'A country great in arms and rich in soil.' \*\*

There are some who argue, that unless there is a great production of corn, the country cannot maintain itself, but it must be at the mercy of foreign states; *therefore*, let us have a corn-law, as if it was the grand cure for all such ills.<sup>s</sup> So far from this being the case, it is entirely the reverse, as may be proved from the experience of the ancient Romans. "When individuals were restricted by law to a small portion of land, and citizens cultivated their own farms, *there was abundance of provisions* without the importation of grain, and the republic could always command the services of hardy and brave warriors when occasion required. But in after ages, under the emperors, when landed property was in a manner engrossed by a few, and their immense estates in a great measure cultivated by slaves, Rome was forced to depend on the provinces both for supplies of provisions and of men to recruit her armies. Hence, Pliny ascribes first the ruin of Italy, and then of the provinces, to overgrown fortunes and too extensive possessions."† It is a very common fallacy to regard a country as wealthy and most productive, that sends a large quantity of products to the head markets, such as Edinburgh or London, and no district is supposed to be prosperous that does not derive large sums from these markets. For the comfort of the human family, it is desirable that a free exchange of commodities should take place, but the fallacy rests upon the idea that all consumption must take place in large towns; as if MAN was not destined to live anywhere

\* Lord Bacon.

† Adam's Roman Antiquities.

could manure it better, and save a considerable quantity of seed. Then the ground lying, say four years, under grass, would yield most excellent crops when ploughed up, and, upon the whole, their land would be much cleaner. The Romans appear to have taken much more trouble with their land than we do now. As far as manuring is concerned, they were far in advance of what we are at present. They were accustomed to manure oftener, and did not put on so much at a time as is now done. They used lime and marl, and they not only made open and covered drains,\* but they studied the proper positions for them. Irrigation was carried on to a considerable extent, and Pliny recommends that water from the highways should be let in upon the fields. They seem to have made much more use of the spade, and, doubtless, we could most beneficially follow their example in this. It would not be so very expensive as some imagine, and upon rich lands, there can be no doubt that the extra crop, the saving of seed, and the superior state of the land, would more than repay the extra outlay. Trenching was held in great repute. They also *mixed earths*, a practice unknown in our day. "Some advise," says Theophrastus, "to mix together earths of different qualities, for example, light with heavy and heavy with light, fat with lean and lean with fat; in like manner red and white, and whatever has contrary qualities. Because this mixture not only supplies what is wanting, but also renders the soil, with which another is mixed, more powerful."† Some farmers dug as deep every year as the rain penetrated, wisely considering that the

\* "If the place is wet, it is necessary that the drains be made shelving, three feet broad at the top, four feet deep, and one foot and a quarter wide at bottom. If there be no stones to be got, lay them with green willow rods placed contrary ways; if rods cannot be got, tie furze together."—*Cato*, cap. xliii.

† This was done every fifth or sixth year. The Romans may not have been such adepts at agricultural chemistry as we are; but they seem to have been more alive to its real uses, for they endeavoured to adapt their crops to the soil and climate,—a practice which our farmers would do well to follow. "A field," says Cato, "that is rich and strong and in good

particles of manure are carried downwards by the rain. Others, although they cultivated rich soil, manured their lands by taking any kind of earth from three feet below the surface, and laying it one foot thick upon the top.

The Romans were very careful in the selection of their seed; they considered old seed to be bad. "That of one year old," says Pliny, "is best; of two years' old, worse; of three, worst of all; and beyond that it is barren." Farmers in this country are invariably cheated with their clover seed, which is imported from Germany; if they got it fresh, one-third of the seed would be saved. In selecting their seed, the Romans chose the largest and best grains, which they managed to obtain at the foot of their *area*. From personal knowledge, we can state that particular crops could be immensely improved by a little more attention being paid to the seed. It is no uncommon practice, for instance, for potato seed to be taken from the *refuse*, that is, the very worst of the whole! Care is seldom or never taken to select the best tubers for preservation to seed-time; thus the stock is deteriorated from sheer carelessness.

Ploughing was esteemed of the first importance in ancient times. Cato and Pliny ask, "What is the best culture of land?—good ploughing. What is the second?—ploughing in the ordinary way. What is the third?—laying on manure." They seem to have considered it a desideratum to have the ploughing so neatly done, that an observer could not detect the lines of the furrows. From the number of instructions given to Roman farmers, one might conclude that they were very ready to be taught. If they were, they would be different from some in our day; for, were you to whisper in their presence that any improvement could possibly be effected, you

heart, without trees, should be sown with corn; the same kind of soil, if wet or moist, should be sown with turnips, raddish, millet, and panie." "Barley," says Columella, "will not answer in any but loose and dry soils." Theophrastus declares, that the knowledge of adapting plants to the soil is one of the principal things in agriculture.

would run a great risk of having your ear pulled. As long as the Roman farms were small in size, the commonwealth flourished—ample resources were provided at home; as soon as they threw the farms into large divisions, from that moment may be dated the commencement of its overthrow. Surely this is enough to warn all nations in future times not to make a mere convenience of population, of their peasantry in particular. Great wealth concentrated in the hands of a few, and abject poverty among the masses, is a sure and unmistakable symptom of decay. “More than one of the Roman senators,” says Sismondi, “had possessions yielding £160,000, *for it is well to compare this enormous wealth with that of the country that approaches most nearly to it.*” What country is here meant? This great historian, who has studied the rise and fall of nations, and noted the causes that have led thereto, has spoken candidly out. It may be that the reader may pass lightly by his warnings; but if there be one man in the present day now able to give an opinion on such a subject, that must be Sismondi. Should he have been unable to do so, no one living need try it. Sir A. Alison says, “In the causes of the greatness, and seeds of ruin—in both there is a striking, and to us portentous, resemblance.”\* We venture to declare that, as to the causes of such increased wealth in the hands of a few, and poverty in the many, the four evil regulations we now complain of are the predisposing causes; and should these be abolished, no surer remedy could possibly be found for the diseases of our social fabric. Many are the plans which have been proposed for the amelioration of the working classes; their fecundity is a characteristic of the present age; but prevention is always better than cure. It is madness for a man to induce ill health for the purpose of enjoying the benefit of a new discovery in medicine; and so with our social health. Go on sweeping the country districts, convert hardy and industrious peasants into dissipated and debauched fac-

\* See Alison's *Essay on Sismondi*, vol. iii. 231, to which we would cordially recommend attention.

tory workers, and, notwithstanding all the splendid schemes that the ingenuity of man can devise, and his philanthropy carry out, the result will only show his inability to contend with evils on so gigantic a scale, or subdue diseases of such malignity and magnitude. By diverting a larger portion of that wealth now laid out upon machinery to the improvement of the land—which would be undoubtedly a far more satisfactory investment—the pressure upon our large towns would be removed, and our country districts would be again enlivened by a happy and thriving peasantry. “There is as much true philosophy as poetry,” says Sismondi, “in the well-known lines of Goldsmith—

“ ‘ Ill fares the land, to *hastening* ills a prey,  
Where wealth accumulates and men decay !  
Princes or lords may flourish or may fade—  
A breath may make them as a breath has made ;  
But a bold peasantry, their country's pride,  
When once destroy'd, can never be supplied.’ ” \*

“ The happiness of a nation, its morality, order, and security,” says Alison, “ are mainly, if not entirely, dependent on the extent to which *property*, with its attendant blessings and habits of reflection, regularity, and industry, are diffused among the people.” Particularly is this the case as regards property in land ; for, where it is under a good system, the people are generally happy, comfortable, and industrious ; but, on the other hand, where it is subject to the restrictions of feudal barbarism, the people are less patriotic and less industrious. There are few things that more nearly concern the wellbeing of a nation than the tenure of land. Look, for instance, at our countrymen in America, how industrious they are ; look at the peasantry in Flanders ; and, above all, at the peasant proprietors of Switzerland. It is certainly wonderful to see the industry manifested by the Scotch at home ; circumstances considered, it beats any thing in the world ; for, be it remembered that they have no hope of get-

\* “Deserted Village.”

ting the use of their improvements for more than the currency of the lease. Generally, on its expiring, they lose all the unexhausted outlays, or they have to *bid a higher rent on account of their own improvements* if they are to retain their farm. The Romans managed their land otherwise: they considered the improvement of the land as the first thing to be considered—the rent as merely a consequence thereupon, and secondary in importance. “The landlord,” says Columella, “ought to be more rigorous in demanding culture than payment; in consequence of which the farmer, having a good crop, will not have the assurance to demand an ease of his rent.”

Meeting with an intelligent countryman one day, he pointed out a district where, in his remembrance, there were a considerable number of towns, and where no vestige of them now remains. There were two mill-towns to which they went to grind their meal; and this community was noted for being quiet and respectable, and an old song celebrates their loves and courtships; but the very name of the district, along with the knowledge of the fact that a great many families lived there, will very soon be unknown. “I cannot understand how this should be,” he said; “for I would be one of a number who could take that farm for the purpose of being let to small pendiclers, and who could afford to *give a much greater rent*.” Personal knowledge enables me to corroborate this statement; but until land is put upon a proper footing with other kinds of property, until it is caused to bear its fair share of taxation, rentowners and factors will always treat poor, but honest and respectable, cottars with contempt. To overhear any of these men talk of the peasantry, a person who knew no better would imagine that they had a grant or feu of their properties from heaven, and that it was out of pure philanthropy on their part that ordinary mortals were allowed to remain in the country. What a strange hallucination! We venture to predict that, if the game rules and the practice of hypothec were put upon an equitable and just footing, very different

would be the feelings with which ordinary people would be regarded. "I cannot understand," continued my informant, "how these honest and industrious people should be swept from the country to make room for sheep; I cannot understand how fifty fires should be put out, and fifty fire-houses\* should be pulled down, to make way for one, who, by the way, did not enjoy his invidious possessions long." I inquired where the people had all gone; and he told me that considerable numbers had gone to America (where several of them had risen to notice), but the remainder of the pendiclers had to seek refuge in a certain manufacturing town, and in some weaving villages not far distant. We are quite aware that many will affect to smile at the detail of such a wholesale sweeping of the population of a countryside, and say, "Oh! if it be necessary, these places could at any time be again filled with population." No doubt the disease has not gone so far with us *at present* as to render that an impossibility, for people born in the country would do any thing to get back to their happy homes; but *will their families born in the towns go?* As soon as the old stock has died out, we are doubtful if people born and brought up in towns would go there, even although *they got the places rent free*. To sweep a country of its peasantry, must be confessed by all who have read or studied Roman history, as a *most dangerous experiment*; for, after the Roman cultivators had left their lands, all the power of the Roman empire could not get the land repopled. Every scheme that ingenuity could devise was tried, but in vain! This ought to teach us a lesson of caution, lest our fate may be the same, and it would not take much to cause it. Another Australian gold field discovered would perhaps give emigration from country districts such an impetus, that the vacancies so caused could not be filled up by the population

\* Fire-houses. By this term the reader will understand dwelling-houses. Thus, it is customary for a man to say, indeed at every corner of the road he may be able to tell you, "I mind when there were thirty *fire-houses* there."



which remained; and there can be no doubt that, if the *country be once cleared of its inhabitants*, our existence as a nation is from that date at an end for all good. We may note a rapidly-accelerating decline from the moment that the population begins to disappear. But for the counterpoise of the country population, *les classes dangereuses* would get the upper hand; and they would make short work of it, as they have so often done in France. Crime is always multiplying in towns, and, but for a mixture of healthy and patriotic infusions from the country, Democracy and Socialism in their worst forms would regain the ascendant, and then all classes would suffer. It is therefore no idle theory that we propound, that if the towns continue to absorb the population at the ratio they are doing at present, our *nation must go down*.

Crime always has been, and most likely always will be, much more prevalent in towns than in rural districts. "What," asks Alison, "can be expected from a state in which crime in the manufacturing districts is thus increasing twenty-seven times as fast as mankind in the rural?" We need only refer to Sir Archibald Alison's excellent essay on "Crime and Transportation" for a full statement of the case between crime in the country districts and in the towns, where a true exhibition will be found of these social ills. He quotes a paragraph from M. Moreau, in which it is to be feared there is a great deal too much truth:—"In the year 1805 the criminal commitments in Scotland were 89: they are now (1840) 2864; that is, they have increased in thirty years thirtyfold. It would appear that Scotland, in becoming a manufacturing state, has in a great degree lost the virtue and simplicity of character by which she was formerly distinguished."

In the good old days of Scotland there was a great regard for neighbourhood. People took a kindly interest in all those they were acquainted with, and delighted to do each other a good turn; "a neebor's bairn" created a multitude of sympathies. "The price may be dear; but ye canna but deal, he's

a neebor's bairn." Such were the feelings which actuated the peasantry in regard to the claim of neighbourhood. What in our present artificial state is thought of such arguments? What does the manufacturer care for the happiness, the health, or morality of his workers, provided he can wring the stipulated amount of work out of them? Let it not be supposed that this iron system is confined to the towns; what does our large farmer care for his ploughmen or day-labourers, but to grind labour out of them? There are no kindly wishes for each other's happiness or prosperity; there is no oil to cause the wheels of labour to go smoothly round. Instead of asking any of these gentlemen to exercise philanthropy towards those who are placed beneath them, we preach against those pernicious enactments by which a few men are placed high above their fellows; and are enabled to go about preaching "production" as the grand *desideratum* for our nation, while, at the same time, they are squeezing the life-blood out of multitudes of poor and outcast operatives. Let us wipe off from our statute-books those vile enactments which foster and encourage such a rotten state of society.

Avarice in the towns is the grand guiding star, it is from them that Mammon derives his great amount of worship, his great multitudes of devotees. The possession of money is the grand test of moral conduct there; morality is there so low, that the money qualification is every thing; a certain degree of it is necessary to procure respectability, and respectability is made subservient to Mammon! Strange state of matters indeed, when morality is sacrificed at the shrine of Mammon! "Children," says Alison, "come to be looked on, not as objects of affection, but as instruments of gain; not as forming the first duty of life and calling forth its highest energies, but as affording the first means of relaxing from labour, and permitting a relapse into indolence and sensuality. The children are, practically speaking, sold for slaves, and, oh! unutterable horror! the *sellers are their own parents.*"

This picture is dark, but not more so than truth demands. It reminds us of the Gentiles of old, who sacrificed their children to Moloch. Such is the low pitch to which society is now brought by straining after the shadow of *production*; at its shrine our wealthy men would not hesitate to sacrifice all that is fair and bright, all that is good and true, all that is loving and pure. Does this false state of matters not argue that something is radically wrong with the very foundations upon which society is at present founded? There is very strong suspicion against it, and an easy indifference on this subject is a crime of the deepest dye—it is a sin against society and civilization; against our own individual interests, as well as against those of our friends; and, moreover, a sin against our common patriotism.

It must be allowed, that society is, in present circumstances, forced, like a hothouse plant, up to an artificial height, and that the solid and substantial enjoyments must give way to heartburnings and evil feelings of every kind. There is little real love abroad; every man values his neighbour only as an animal whom he tries to make subservient to his own nefarious designs; there is little real brotherhood of the Burns' school, of the men who formerly sung "Auld lang syne;" a man will now sacrifice his best friend, provided he can gain a little money by so doing. Mammon has dried up the streams of friendship, so that every man you meet is only kind to you if he thinks that he can make out some mercenary advantage by so doing. The meanest practices are resorted to, there is nothing too low to be submitted to, just if we can make money; and yet we find men pretending to study science, who are ready to justify the whole, and prate about the wealth of nations and individuals,—what a farce!—as if a country could be really enhanced in true riches, by the spread of such disgraceful practices. The increase of wealth in a country is not exactly such a simple matter as some wise men take it to be. There are two or three things to be considered, and these take a little more time and stu-

dious reflection, than most people are anxious to bestow upon them. Our manners have now lost that simplicity and modesty that formerly characterised them, and a family is nothing thought of now, unless a great establishment of servants is kept up, unless the most expensive luxuries are obtained, aye, although tradesmen should remain long out of their money, and perhaps never be paid. Such are some of the benefits we have derived from the feudal system; how different from the patriarchal simplicity of old times, and of our own loved land sixty years ago! To be behind in some foolish fashions, to reduce your expenditure a little, to confess that you are poor, are sins and crimes which can scarcely be pardoned. The world is now cruel and unkind, and instead of sympathising with the man who, to preserve his honesty, has parted with all his effects to his creditors, they speak all manner of evil against him, and, truly, when his head is once down, it is no easy matter for him to get it up again. On the other hand, how many do we see exalted in society, who receive homage, such as it is; who are looked up to and praised because they have become rich—whether by good means or bad, honestly or not, it is no matter! Few, few, indeed, there are in our day who can boast of what Burns sung of "*honest poverty*," and few there are indeed who can appreciate the line of Nicoll, "We daur be puir for a' that." It would not be amiss or unprofitable to study the manners of the Romans and Grecians, and imitate that contempt of wealth which distinguished some of their justly famed heroes. We should beware of valuing merit according to its standing within our realms; but we should endeavour to realise that there is something far superior to wealth, and that our manners may not be perfect, although they be in every thing according to what Byron stigmatised as

"The cumbrous forms of Saxon pride."

If we could step aside from the world for a moment—if we could mount to a small eminence and contemplate the crowd

beneath us—if we could see their faces glaring out the fierce spirit which holds sway within—if we could extend our gaze and see the splendid prize for which they are all running, we would see what immense revenues of homage Mammon receives from the human kind. Even the best of our institutions all lie in the same direction, instead of being fair and equal as justice demands. The nasty weed has overgrown our fair gardens, and has even insinuated itself into our churches, and in too many cases it has mounted to the pulpit, and a whip of small cords was never more needed to drive it out than at the present moment. This chimera about gold has seized all classes, assumed all the colours of the rainbow; it has been known to clothe itself with the mantle of philanthropy, patriotism, and religion, the better to promote its mercenary designs. This nightmare, this terrible hallucination, has haunted every mind, and goaded it on to crimes which would otherwise have been shunned. Satan is never more dangerous to the human kind than when he puts on the garments of an angel of light. Men have been taught, that to look to the interests of themselves and families is a duty, which it certainly is; but see what use our arch-enemy has contrived very dextrously to make of truth! Instead of men regarding the acquisition of riches as secondary merely, as an evil although a necessary evil, they contrive to make it of *primary* importance, and we hear men justifying all kinds of conduct, by telling us they have a wife and family to provide for, and as they must be kept at some imaginary style of respectability (in other words, at an extravagant expenditure), every thing else must subserve this end. And one man chooses to frequent “company,” as it is called, until he becomes an irreclaimable drunkard, and he soothes his conscience by saying, “Oh, my business must be attended to.” Another pursues an unlawful trade, in consequence of which his family are ruined in their moral character, and he takes credit to himself for so doing, and says, “A man who provides not for his own house, is worse than an

infidel." Others throw themselves open to every temptation, sacrifice their mind and body at Mammon's altar, and, by a strange delusion, they flatter themselves that if they provide a certain amount of wealth, and on that account procure respectability in the world, their conscience is clear—they have done their duty to their family; but see how often it happens that this wealth that they have laid up for their family, only forms a snare into which they fall, and thus they are ruined both for time and eternity! Families do need sustenance, but they need a great deal more; they require training both mental and physical; they need to be tended and watched, and the tender stem demands both culture and nourishment; above all, it is most indispensable that a family receive, under the paternal roof, the benefit of a good example—the best *legacy* that a parent can bequeath. Some people will not believe it, but it is nevertheless true, that society can never be enriched by such avaricious grasping conduct as is generally displayed now-a-days; for both science and common sense declare, that it is not production *only* that can enrich a country,—other things are of more importance than it, and without them society would be better rid of such forced production as that which has been now condemned.

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SECTION VIII.—SUPERIORITY OF THE COUNTRY TO THE TOWN.

PAUPERISM is now becoming loud in its demands; its vast increase of late years is somewhat alarming. This is certainly a great social evil, and it is chiefly to be traced to the artificial state of society now existing; it may, in fact, like Pharaoh's seven lean kine, swallow up and devour the whole of the seven fat and well-favoured. Were our manners more pure—were our population better distributed—were landed property free, and its blessings made patent to all who are industrious, there cannot be a doubt that pauperism would

be much less prevalent amongst us than it is. In Scotland formerly there was a great horror at the poor's roll; the blessings accruing from cultivation of the land diffused a very independent state of feeling throughout the peasantry.\* There was a much greater amount of frugality practised, and the poverty which did appear was considerably seen to by kind neighbours. We once met an old man at whom we inquired about former practices in this way, and he told us, that "the puir folk" had a few sheep, and they received meal and other country products which rendered their condition tolerably comfortable. "And," added my aged informant, "nobody felt themselves poorer for all that was given." But in towns especially, the feelings of independence are all but obliterated. There is no wish to lay up in store against a rainy day, the wages of the tradesman are spent as they are received, either in living up to their full income, or wasting what is over on gaudy dresses, or in debauchery. Music saloons too, we are afraid, are becoming too common, and they are excellent stepping-stones to something worse. It is not altogether the immediate pecuniary results of the recent poor-law that we are most afraid of, but its *moral force* in chasing away the feelings of self-dependence so necessary both for an individual and for society. They encourage too much of the sentiments of a woman (aged eighty) in Glasgow, who got drunk on the parish aliment, and was found singing, "The world is bound to maintain me, sing yo, sing yo," and we are informed that some other paupers carried on the cho-

\* A man had occasion to see me some time ago, and asked a small loan, which he promised faithfully to repay at a certain time. I asked him how he was able to maintain himself when his family was such a helpless burden upon him, hinting that he might be getting some relief from the parish. "No," says he; "I believe I am as poor a man as is in the parish in which I live; but so long as my hands obey my will, none of mine shall ever accept one penny of poor's funds; so long as we can live at all, under any shift, we shall not avail ourselves of that last resource." What a fine picture of true independence in a humble sphere! Would that our pauper population were all actuated by the same spirit!

rus ! It is lamentable to think that a great part of the poor's funds, in large towns, are spent in the public-house. Before "recent improvements" were introduced into Scotland, such things were unknown. May we be allowed to hope that they shall yet improve ? This is another view of the advantages we derive from clearing the country districts, and concentrating the masses of population in the wynds and closes of the town.

*Prostitution* is already grown into a fearful evil, and we may well contrast the superiority of country districts over towns as far as this vice is concerned. Take a man and wife from a rural district where they have lived respectably all their days, and place them with a young family in a crowded town. The parents have no practical experience of the crimes perpetrated in a town, and they are not alive to the great vigilance required to keep their young family out of the paths of vice. Is there any comparison to be made between the morals of a family brought up in a farm-town and those of a family reared in one of the low streets of a large town ? Having read a description lately of how Thugs are introduced to their fatal trade, we were struck with the effect of actual *contact* in blunting the moral perceptions. The intended Thug is sent off to a considerable distance, away from the scene of murder ; the instruments, clothes, and corpse are carefully hidden, so that the youth only suspects that some foul deed has been done. At the next occasion he is sent out of sight ; and when he returns the corpse is seen, and he is left to infer who did the deed. When the next murder occurs he is so reconciled, that he is allowed to be a spectator ; and then his feelings are seared so that he can from that time take part with his associates in the horrid trade of murder. In like manner, all kinds of wickedness in towns tend to blunt the natural abhorrence to it ; the close and constant contact with vice, evil examples, and corrupt communications, destroy all regard for virtue, and hurl the victim to the lowest depths of moral and physical pollution. In the



country districts society is much better, and a far healthier tone of morality is kept up. Public opinion in the country exerts a beneficial influence; while in the town it has no effect, and crime goes forth in the open streets unabashed and shameless. In the rural districts virtue is encouragingly noticed and applauded—in the towns it is passed over or forgotten. Is it wise in our legislature to convert virtue in the country into prostitution and drunkenness in the towns? Rather ought population to be encouraged to develop itself in the country, where it is better in every respect, than be compelled to mix itself up in the midst of dens where drunkenness, prostitution, socialism, and pauperism struggle for the mastery, and where the vulture-like passions that infest the human soul hold an almost undisputed control.

*The literature of the country* is as superior to that of the towns as the difference is great in other things. To our knowledge, "Scott's Commentary on the Bible" is the work that sells largely in some country districts, where no other books are sold. This is, in the opinion of some, no small compliment; while in the towns there is a marked distaste for such strong meat. The reasoning faculty is much better developed among our best peasantry, and their minds are altogether of a more masculine cast. What they do read or study, they do it well, much more profoundly than is done in towns. We were much delighted lately at hearing an apt quotation given by a small farmer; and on inquiring where he had picked up such sound truth, he told us that he had taken it from "Dwight's Theology," which he highly appreciated. Compare such reading, if it can be done, with the trash you see for sale in the booksellers' shops of a densely peopled town: it is all *light* reading—novels principally; and, in support of this statement, we may mention that a librarian lately informed us that four novels were taken out for every single work on all other subjects put together. What a disclosure! Of the good services of novels we have a very humble idea: few of them we now care about reading; for the great majo-

rity of them we have a thorough distaste. The peasant reads for instruction, and he can find very little of it in the writings of Eugene Sue, or authors of that stamp; he likes something that he can remember and tell again; he chooses food that will digest and yield some nourishment, for he cannot be fed upon thin air. Proud as we are of our country, and fond of dilating upon its excellencies, there is perhaps nothing that we are really more proud of than the intellectual development to be noticed in the lower orders, especially in rural districts. We are not without hopes that it will be of some signal service yet: the German philosopher could come little speed, with all his boasted metaphysics, if pitched against an honest Scotchman well read in his Bible; he would find that he had a sturdy antagonist to deal with, and one whom he could not evade with all his sophistry.

Perhaps there has been no peasantry in ancient or modern times that has excelled the Scotch in *morality*. This is the grand redeeming point in their character: it stands out in bold relief when compared with any other. Honesty has ever been with them thoroughly indispensable. Those who, like ourselves, have been brought up at the feet of Scottish Honesty, know well its severe and stern character. It is a very different teaching indeed from that mawkish, sickly instruction that is given in the new school. Honesty was in the good old times a cardinal virtue; now, you hear many take its sacred name into their lips, but it is too often to cover an attempt at overreaching. We have heard men, when endeavouring to underpay a servant, talk about "My duty to myself," "My conscience says so-and-so." Pure honesty needs no such recommendation: a poor workman knows well when a master has real integrity, and nothing can cover it from him. Young Scotchmen! be not ashamed of your country wheresoever you tread! If you are sneeringly asked where you come from, fear not to reply that you come from the stormy north, where the people are poor, but loyal and true. If they ask you how rich are your country-

men, tell them they are rich in friendship and faithful in war—never yet having turned their back on friend or foe. If you are questioned further, challenge the world for a rival to your native land; tell them that you come from a country where the poets can sing of "*honest poverty*," and the people can appreciate the sentiment, and put it into everyday practice. We venture to say that your answer will put them to silence. "*Honest poverty!*" what a word! Out of Scripture there is no language that can be mentioned on the same day with it. Proud Greece and Rome, with all your sages, patriots, and heroes, you can produce no saying like it!

It has been said that the Scottish peasantry, particularly in the Highlands, have been characterised by a love of money. It may be that a strict frugality may have given some colour to such an insinuation on the part of those who are ignorant of their true character; but it is only such as ourselves, who are acquainted with their necessities, the severe economy which they must practise ere they can pay their way honestly, and bring up perhaps a numerous family well educated and respectable, that can appreciate their worth. But when a friend has to be served, or any principle to be adhered to, the Highlander well knows at what value he ought to estimate gold. History can produce nothing equal to their unswerving attachment to Prince Charles, of whom it might be said, that all the gold of Australia could not have bribed them to betray him.\* Surely we would look in vain for such an exhibition of fidelity in any town. But put the Highlander into a town, and in a few years he will likely be as bad as the rest of the population, and his family will be brought up in as loose a manner as those around him.

*Religion* has at all times been found in the quiet of rural

\* A sum of £30,000 (equal to £100,000 now) was offered for his discovery dead or alive, and although thirty Highlanders were in the secret, not one was found unfaithful. Some of these were very poor, which made the temptation greater, as may be imagined from one of them stealing a cow, valued at £1, 10s. for which crime he was hung.

districts, much more than in the bustle and confusion of towns, where avarice dries up the heart-springs, and vice is ever abundant. In the country, a man meets with every thing to solemnise the mind and to warm the heart. In the town, in the crowded lanes and wynds, every thing tends to mar the better feelings. Man there comes into unavoidable contact with all that is calculated to pollute him, and to degrade him in the scale of intelligence—filth physical is no mean assistance in developing filth moral. Many are disposed to question what has been stated about the spread of religion among our better-class peasantry. Those who wish to see it still, would do well to pay a visit to some landward parish in Ross-shire, and then go back to one of the lanes of a large city, and note the difference. Perhaps no better illustration of the power of religion could be named than that exhibited by the 93rd Highlanders, the best behaved regiment in the British service, and among whom are many men of real sterling worth. Look how the Sabbath is kept in a manufacturing town, and compare the observance of this great precept of the moral law, with what you will see in a northland town or village where the pure gospel is preached. Take a walk, for instance, on a Saturday evening through one of the densely-peopled lanes of a large town, and note the numbers who frequent the gin-palaces, and who, if they do not continue the debauch over Sabbath, are at least in no very suitable frame of mind for spending the day in religious exercises. The Saturday night is otherwise employed in the north, where every thing is endeavoured to be arranged so as that the Sabbath rest may not be disturbed.\*

\* A number of years ago, we had the pleasure of spending a Saturday among the fine scenery of the north of Scotland, and after enjoying ourselves till it was time to depart, a piper made his appearance, and favoured us with some of his most beautiful airs. We returned to the inn for a short time, and on coming out, expected to have found our friend the piper, but to our disappointment he was not forthcoming. We had the curiosity to inquire what had become of him, when we were informed, that the people did not wish him to play longer, as it was drawing near Sab-

At present, the horizon is dark and gloomy. Popery and infidelity are flowing in upon us like a tide: it is evident that a struggle for the mastery must take place, and that before peace will come, the hostile armies must be closed in a death-combat. Either truth or error must prevail; and as these two opposite principles cannot govern the world, either the one or the other must give way. Scotland in her better days was not idly employed when such wars raged in Europe. She had *then* a peasantry who could do battle either for civil or religious liberty, they were not characterised by the effeminacy of city inhabitants; they stood nobly forward in the cause of religion and liberty, and to their blood we owe the growth of that noble plant which has spread its wings and shadow over many lands. Scotland may yet have to stand her ground; she may yet have to stand to her arms in the cause of religious liberty and civil freedom, and truly if she has a bold peasantry, enlightened, Bible-read, and faithful as ours have always been; such, we aver, would be no mean weapon which she could employ—such a weapon as would serve both for assault and defence! You who love religion and civil liberty, we counsel and implore you not to throw the weight of your influence into the scale against our trusty friends,—lend not your name or your influence to banish morality or worth from our native soil, or take care that you do not convert it into bothy blackguardism or urban indifference. Compare the conduct of our unoffending Highlanders with that of the Irish cottars when bereft of their homes; never did we hear of an outrage committed on a clearing proprietor in the north, not even an insulting word uttered; at one time they are prevented from emigrating, (or at least the attempt was made\*), their houses have been bath,—by this time it was between 10 and 11 o'clock. This little incident—this little straw on the surface—often struck me as illustrating the different feelings with which the Sabbath morn would be ushered in there, as compared with the debauchery and wickedness with which its early hours would be welcomed in a large town.

\* See "Burns' Works," Chambers's edition, p. 82.

burnt over their heads, and some aged inmates consumed to ashes, and yet they are peaceable! Had it been an enemy that did this, it would not have been so well with him; however indifferently Britons care for *their* distress, Highlanders would not stand as quiet onlookers when trouble was at the door of our country; but sweep them off, drive them like a parcel of slaves to Canadian wilds, and they are patriots still—Britain's truest sons!\* Perhaps her most gracious Majesty does not possess more loyal subjects,—men who would sooner shed their blood in her defence,—than her true-hearted Highlanders in the far West! And to what is the forbearance of the Highlander to be ascribed? is it to his hardships being less than those of his Irish neighbours? is it the feeling that he really deserves such treatment that makes him patient under suffering? The difference lies in this, that the poor Irish are led by an ignorant and bigoted priesthood, while the humble Highlander reads the Scriptures for himself, or they are expounded to him by such men as Dr M'Donald of Ferintosh, and he is thus taught to forgive his enemies, not to shoot them down. Our peasantry can at present point to one illustrious specimen taken from their ranks, his intellect stern and severe, (like the rocks of his native vale that rise behind the black Castle of Moulin), who has been well able to unravel the windings and sophistries of Hinduism; and had his lines fallen in our loved land—among our slippery philosophers, our German sophists—they would soon learn that they were no match for the sturdy Celt. And the Saxon

\* "The large bodies of Scotch Highlanders who have settled in the wilds of Canada, have borne with them from their native mountains the loyal ardour by which their race has been distinguished in every period of English history; on every occasion have they been foremost at the post of honour; and to the patriotic attachment of the inhabitants of this noble province, the preservation of those magnificent possessions to the British crown are mainly to be ascribed."—*Alison's History of Europe*. We have been informed that 600 John M'Donalds turned out on the appearance of danger. The pibroch never yet sounded in the cause of country, but the clans have been marshalled, and ready to march forth to death or victory. Change of scene makes no difference to them—they are true to the last!

would have felt when firm transfixed under the iron grasp of the Gael, that indeed

"No maiden arm was round him flung."

Many such men possessing rare genius have come from the Scottish peasantry, and with fair legislation we would anticipate as great things still, and that they would show by their morality, diligence, and perseverance, that they were not unworthy of a home in their native land.

## CHAPTER II.

### HYPOTHEC.

“ When land is let to a farmer for his rent, he not only cultivates the land, but provides cattle, utensils, and seed; and the landlord, *except the expense of carrying home, threshing, and cleaning*, has his two-fifths of the crop, free of all burdens. . . . Cato mentions the division of the crop as made in some cases immediately after reaping, *as is done in this kingdom*, and in others immediately after threshing.”—*Husbandry of the Ancients*, published 1788.

THE state of our law affecting game and entails, is regulated by statute—by Acts of Parliament. Such, however, is not the case with the law regarding hypothec—it is regulated by *custom*, without having the power or authority of Parliamentary sanction. But it may be asked, How is justice in these circumstances to be administered? and we reply, that it is dispensed by the courts of law; and the judges are regulated in their decisions by precedents, usage, consuetudinary or unwritten law.

It is not necessary for us to enter into a discussion as to how far common law should be allowed to operate without the authority of statute; but it does seem to us indispensable, in order to obtain a right view of the subject now before us, to ask how far we should be regulated by antiquated custom and unmeaning prejudices, in forming a proper estimate of the rights of hypothec.

Not many years ago it was a common custom in the Highlands of Scotland to have death-wakes, where games and sports of all kinds were carried on for the amusement of those who attended! Sweer-tree, heavy lifts, trials of strength, were usual; and in some cases music and dancing were in-



We have lost sight of the bundle while looking after a lost straw. We have got into such an artificial state, that "law," falsely so called, has obliterated all trace of the paramount claims of justice. Strange state of matters!

Instead of justice being ignored under any pretence whatever, every thing ought to be done to let it have full and free scope. Instead of hampering its movements, we ought to help it forward with all our might; and perhaps a clearer recognition of its claims would diffuse an excellent spirit throughout all our transactions, individual or social;—if we would always ask ourselves, "What is justice?" instead of "What is the law?" our national improvement would be accelerated. Justice should be dispensed with the utmost exactness—to an infinitesimal quantity betwixt man and man, betwixt class and class. Certain methods having been found, on experience, to be best adapted for drawing out and expiscating the merits of a lawsuit,—these are termed, "law," or "forms of process." Thus you summon a defaulter for payment of a debt; a certain number of days must elapse before the case can be called in court; and after you obtain decree, so many days must pass ere you can put it in force. These delays are necessary to secure the defender against a hasty decision being made against him, and to enable him to consult whether he should appeal to a higher tribunal, or make arrangements for paying the sum decreed.

It no doubt affords considerable advantage to know how our predecessors acted when placed in a like dilemma—to know the reasons that guided them in coming to a decision—the arguments that supported the particular views, so that more light might be obtained from their experience; these are called "precedents;" but that circumstances may have altered materially since that time is likely enough; and although such decisions may carry considerable weight with them, they cannot form a rule of civil conduct to us. "Unwritten law is that which, without any enactment by the supreme power, derives force from its tacit consent; which

consent is presumed from the inveterate custom, or immemorial usage of the community. . . . . The authority, therefore, of customary law is not grounded on any presumption, that what has been long observed MUST BE JUST, as some lawyers choose to speak." \*

Let us now look for a little into the origin of those customs by which the relation of landowner and tenant are regulated. When these customs were commenced, society was very differently constituted from what it is now. Serfage and villanage were quite common, and colliers were sold as a constituent part of a colliery. There is also one very important remark to be made (and which we think is closely connected with the subject of hypothec), viz., that *commerce was in these days contemned*. Statutes were passed to fetter its operations. Men who obtained their living by trade were treated with contumely and contempt. Such was the spirit of the times when the rules anent common law were introduced. Are such fetters suitable for our days, when the spirit of the times is in favour of industry, enterprise, and commerce? † Would the laws against forestalling and engrossing be tolerated for a moment in our day? Suppose a despised trader, living by the gains of legitimate trade, were to have a disagreement with a baron of the olden time anent some grain purchased from a serf, what kind of justice could he expect? The decree would doubtless be in the baron's favour—the feelings of the judges would be all against the man of trade; and yet such outrageous decisions must form an infallible rule to guide our transactions in the present day! The sword was the grand arbiter in former times—it saved such troublesome formalities as forms of process, and entirely dispensed with such a useless encumbrance as evidence. At one period of Scottish history the barons ruled with a high hand,

\* Erskine's Institutes.

† Need we mention the Great Exhibition as a proof of the altered spirit of our times? Could any thing have been devised more contrary to the spirit of feudal institutions?

and we are told that "the royal jurisdiction was almost confined within the narrow limits of the king's demesne, beyond which his judges claimed, indeed, much authority, but possessed next to none." In 1425 a Committee of Parliament were appointed to hear and adjudge causes. This was called the *Court of Session*, or fluctuating committee. Afterwards (in 1532 or 1537) the *College of Justice* was instituted after the model of the Parliament of Paris. This court was at first composed of seven churchmen (who, of course, were Roman Catholic dignitaries)\* and seven laymen. If these Catholic worthies were all as learned as the Bishop of Dunkeld (who was thankful he could neither read nor write), no wonder that the "law" which they founded is open to challenge. The highest authority† has declared, that the original Court of Session "was found particularly negligent in causes of the poor." What a disclosure! And yet from this corrupt fountain may be proceeding such disgraceful "law" as that which now regulates "hypothec." What respect can we now have for "customs" commenced in such anti-commercial times, with such venial administrators of justice? How are we bound to perpetuate to posterity such questionable practices? Are we at all bound to yield implicit obedience to such shameful precedents? If such was the manner in which they treated *poor* applicants for justice (who perhaps came to seek protection from the oppression of some neighbouring tyrant), what could the man of trade hope to receive? Could he expect to receive equity at the hands of men who scrupled not to condemn the poor when they claimed the shield of their power against the rich oppressor? We leave the reader to draw the inference, and to inquire whether we should not view with jealousy such evil beginnings.

It does not follow from what has been advanced, that all

\* The abbot of Cambuskenneth was first president, although it did not appear that it was necessary that a churchman should hold that office.—(See *Erskine's Institutes*.)

† *Erskine's Institutes*.

the customs then introduced into our "law" must be bad. Neither does it follow that the practice of hypothec, most likely begun in such times, and nurtured by such men, must be unjust. That charge falls to be proved yet, but what has been stated may at all events prevent us from putting implicit reliance upon ancient usages. Let us now inquire into the foundation of this practice, and judge for ourselves whether it is just or unjust. To be plain, however, we entertain serious doubts whether there be such rights actually existing as those called "Hypothec." The Romans, from whom we borrowed much of our law (which was not feudal), admitted of nothing like our practice of hypothec, and it cannot be denied that there must be some respect paid to their authority. They had the right of "Retention,"—a right founded upon nature, and which, of course, is binding always; but it was different entirely from our custom of hypothec.

Referring to our first chapter, we deny that peculiar favour should be shown to the possessors of heritable property, to the prejudice of owners of movable goods. If favour has to be shown, or preference granted, we maintain that the man who creates property should be protected rather than the other who merely eats up the produce of other men's labour. But there should be no such difference recognised in common law. The debts due to one man should not be liquidated before his neighbour (who has often a better claim for full payment) gets a shilling. Revenues derived wholly from land, are thought by some great writers not to be so sacred as the proceeds of industry. There is one material difference, and that is, that land was not only originally the gift of the common Creator; but unless he bestows his rain and sunshine, it would be utterly valueless. The value of land property depends not only upon what was originally bequeathed for the good of all, but also on *prospective benefits*, and these are entirely independent of the industry of man. *Rent*, as will be shown in another chapter, is the last thing that falls to be paid. All outlays, wages, interest of capital, farmers' re-

muneration, ought to be compensated before one penny is allotted for rent. It being an unproductive element, and principally given without any corresponding benefit in return to society for its absorption, of all other claims it ought to be the last to be "protected" specially. But nature's laws are often, for selfish purposes, reversed. What is naturally last, is made first, and so it fares ill with society in consequence. This is another of the great benefits we derive from the feudal system, for we are aware of no pretensions like "hypothec" being set up, excepting where it has left the mark of its cloven foot. The damage it inflicts upon individual interests is apparent to all; but the poison it infuses into the whole body of society is perhaps less seen, but certainly no less injurious; it insidiously makes its way, and therefore it is all the more to be dreaded.

A cabinetmaker receives an order to make a sofa. In the mean time he makes inquiry as to the circumstances of his purchaser, and finds that he cannot safely trust him. The article is finished. "This is my sofa," says the buyer. "It is," replies the cabinetmaker. "Then I shall take it away, and pay your bill along with my others at the year's end." "Yes," replies the tradesman, "but I cannot let it be removed until it is paid." The purchaser says, "I have bought it—it is my property," and he threatens an action of damages if the refusal be persisted in. Now, will any man deny that the tradesman has a perfect right to retain his sofa until satisfied about payment? In an open market, a farmer sells a drove of cattle to a dealer, and the dealer sells them again, stating they are his property, and receives money. But, of course, delivery of the cattle is refused, the reasonableness of which proceeding nobody can call in question, and the farmer retains possession of his cattle until the price is paid. This is called the right of "*retention*." This is the length we would go in behalf of heritable property; this right is naturally due to it, as well as to movables; farther we could not go in either case. This was the custom among the Romans.

But it will be argued that heritable is not like any other kind of property, that it necessarily requires more protection; and thus, a landowner leases a farm for nineteen years, and in order to secure his rents during that period, "hypothec" is necessary. This reasoning is quite fallacious, for if the owner choose, he could make the rent payable at seed-time or earlier, and no "hypothec" would be necessary. Forehanded rents are by no means uncommon. Hypothec may enable an insolvent farmer to carry on for a year or two longer than he would otherwise do, or ought to be allowed to do. This *may* be beneficial to the landowner—it is highly injurious to the country at large. But with all the outrageous provisions of hypothec, is perfect security attainable? does it never happen that in spite of its nice regulations, the farmer falls through? Nay, does it not frequently happen that a dishonest tenant deceives the factor and all his underlings, and pays no rent at all? We are not sure that it would not be better even for the proprietor to trust to the integrity and intelligence of good men, rather than place his confidence in this broken reed. Suppose that a railway contractor engages to uphold a given line of permanent way for ten years, he has to find materials of all descriptions; rails, chairs, sleepers; and keep bridges, culverts, &c., in repair; he has to keep a man per mile constantly, and, of course, the charge against the company for these outlays is very considerable. But in respect that his contract stretches over a period of years, is he entitled to be paid twenty shillings per pound before the storekeeper (who only supplies articles occasionally) gets a penny? A wood merchant purchases a forest, and he engages to cut a tenth part every year until the whole be cut down. He erects a saw-mill to manufacture the timber, he lays out money to purchase carts and horses for leading it to the mill; now will any man tell us that although these horses are daily on the proprietor's ground, (indeed, never off it), that he has a right to poind them, or the saws, staves, &c., for the purchase-money,—that is, to the entire exclusion of the man who furnished the horses and

carts? If the landowner was not satisfied with the stability of his purchaser, he had a right to retain the wood until he obtained cash or ample security. We posit that the case is identical with the lease of a farm. We can see no particle of difference that should cause the law to be suitable for the one, and not for the other. A farm-steading now-a-days is just as much a manufactory as the saw-mill above mentioned, or any cotton-mill.

When the practice of hypothec was introduced, agriculture, it must be remembered, was in a very different state from what it is now, and so was trade. There was little or no money in circulation, and the landowner was paid in service or in kind. The tenants were in many instances serfs. Such rights as the "*mercheta mulierum*" were common, and from the absurd notions prevailing then, we must, it seems, now take our law. Thus one of the most obnoxious and disgraceful proceedings that it is possible to dignify with the name of "law" (that is, reclaiming corn sold in the public market) takes its authority from a decision in 1639, more than two hundred years ago! One hundred years afterwards, men would be hanged for stealing a sheep or a cow. How would it shock our feelings to hear of such enormities being perpetrated now-a-days! What the owner of land formerly received as rent was a *portion of the fruits of the ground*. "All fruits when growing belong truly to the proprietor of the ground, in consequence of his right of property, and though they become the tenant's by his reaping, or otherwise separating them from the ground with the landlord's consent, yet by the Roman law, they continued, even after being reaped, to be charged with the payment of a yearly tack duty, and so became the subject of the landlord's hypothec, because his consent to the reaping implied a condition that the stipulated rent should be paid out of the fruits to himself." Were this still declared to be the case, no one could object, although, perhaps, the proprietor should be called upon to declare whether he allowed the tenant to reap, taking his personal obligation to pay the value of

rent. But if he did not do so, thenceforth he should lose all preference. This regulation would be a healthful one, because the public could at once see whether they were safe in selling goods to him or in purchasing his corn. This right arises *ex natura*. But if the landowner agrees to receive rent in money, how can the public possibly know how the tenant and he stand? He may possess an unseen bond over the stock and crop which no one can tell of. Does such a concealed proceeding accord with safety to the public interests? If the landlord is determined to exercise his right of retention after reaping, or by sequestration, it should be distinctly notified,—published in the Gazette like other sequestrations. “It seems inconsistent with equity to sustain his right of *recovering* the fruits in a corn farm where the tenant pays *money rent*, since the chief fund for the payment of such must *arise from the sale of his corns*.” \*

But we shall be told that unless the invention of “hypothec” is continued in operation, all rents must be paid beforehand. This does not necessarily follow by any means. The jeweller has no hypothec on his goods after they are out of his fingers, yet does he not *trust* good customers? Ask him why he does so, he says that if he did not give credit, he would not get nearly the same AMOUNT OF PROFIT; if all his sales were for ready money, he must sell very cheap. And so with the laird, if he sells his lease for ready money, he will not get nearly the same rack rent; if he chooses to risk, he, on the other hand, will get a much higher figure. If he makes a judicious selection, there is not so much risk as in other businesses; but why he is allowed to give the tenant credit at the public cost for a number of years, is more than we can tell. We know of no one evil injuring the farmers *as a class*, more than this said system of hypothec; it is an instrument in the hands of a laird whereby the farmers are set to fight against one another, all for his benefit!

Rent being the last commodity that it is the public interest

\* Erskine's Institutes.



to protect, it is necessary to watch over its claims with jealousy. The landowner is entitled, if he accepts a share of the fruits of the earth, to take these fruits away. If he chooses to accept a rent *in money* instead of the actual fruits, he ought not to have more preference for that *money claim*, than any other party having a like claim for cash by open account or bill. "No man's money is better than another's," is a common saying, and perhaps it is true. There is no *cash* or *specie* gathered on the farm, otherwise the rentowner would have his claim to be paid in it. It might not be very convenient for the factor to receive so much victual, and be troubled with the warehousing and disposal of it; but if, for *his own convenience*, a money rent is paid, why should the public suffer that he may be saved a little trouble? The farmer cannot collect money unless he sell the grain; how then does it follow that the rentowner may cause the corn-merchant to pay a second time the grain, of which the first payment went to pay the rent or some other legitimate debt of the farm—more deserving, it may have been, of settlement than the rent?

Another of the gross absurdities of this consuetudinary law provides that the rentowner may confiscate the implements of husbandry; thus, a blacksmith sells a number of ploughs—the farmer having become insolvent, the ploughs are sequestrated for the rent! This is somewhat different from the ancient right to certain parts of the fruits. By what stretch of the term "justice," this can be reconciled to it, is more than we know. Why, if any one is entitled to carry off the ploughs, surely the man who made them has the best right to do so. We have always understood that justice means acting justly betwixt parties. We defy any man to prove that justice means injustice; the former term is, however, sometimes misapplied; the word "robbery" would often be much more suitable.

But we shall be told, "Why, you would sweep away all hypothec as well as that for security over furniture." We reply that we wish not to "sweep" any away, our desire being

only to show the iniquity of the operation of this practice; and we cannot conceive of any right a landlord of a house has over the furniture, any more than a landlord of a farm has over the farm-stocking. However, there is one considerable difference in degree,—hypothec is much more disastrous in its operations on a farm. In the one case, “rent” is only an item in a man’s expense, or in the outlay necessary for carrying on his business. In the other case, it forms *one-third* of his whole disbursements. Thus, the rent for a shop or warehouse will not perhaps average more than 10s. per cent. on the outlay. On a farm it is generally 33 per cent. We shall not attempt to justify the hypothec on the 10s. per cent; but far less will we endeavour to justify or palliate that on 33 per cent. on the whole transactions.\* Take another view of it. Suppose that a commercial man becomes bankrupt, the mere preference claim for rent is only a trifle—very likely only the current half-year’s rent. Now, in a farmer’s bankruptcy, it generally swamps the whole. From the excellent facilities the practice of hypothec affords, rents are allowed to lie over, and then the lawyer’s expenses are, in such an event, great, so that the creditors seldom realise any thing.

If the practice of hypothec be a real right, of course it ought to be extended to all kinds of merchandise. Such an alteration, however, would overturn the whole fabric of commercial intercourse; if other men were allowed to claim the goods, it would not be safe to purchase a single article in shop or market. Reasoning from analogy, some prior purchaser says one has not paid the piece of cloth from which our coat was cut, therefore we must pay it twice. Some workmen might allege that they had not been paid for building our pianoforte, therefore they might come upon us for the amount. Some cap-

\* The reader may consider this, at first sight, as an exaggeration. But he ought to remember that a farm should yield *three rents*: one for landowner; one for working expenses; another for the farmer in return for interest or capital, and for his superintendence. In very many instances, there is not, however, the amount of three rents, owing to the late reduction in the price of grain.

tious persons may say, that such proceedings are often adopted by criminal officers, in searching after stolen goods; such people are either unwilling to see the truth, or their brains are so obtuse they cannot distinguish between a fair and open transaction, in the broad daylight, and a theft committed under cloud of night. If the landowner's claim to make a purchaser refund the grain bought from the farmer be right, no one can tell to what such a practice would lead. Before purchasing a single article, a newspaper, for instance, you would need to see a receipt for the whole outlay connected with it—price of the paper; printers' wages; rent of printing office, &c. But why say more about what is most undeniably a corrupt practice, which cannot be justified by any reasoning whatsoever.

If it be in the rentowner's power to cause a purchaser of corn to refund, we cannot see why cattle may not as well be taken back, after being sold openly at Falkirk Tryst, and perhaps after being exposed at a local market before being brought there. The same claims can be put forth for the one as for the other. Both are equally unjustifiable. The landlord claims a hypothec over the cattle while they are on the farm, but we never heard of their being claimed by him afterwards. "The landlord has a hypothec, not only on the fruits, but on the cattle. As this kind does not, like the Roman hypothec on corns, arise *ex natura*, but is an ARBITRARY CONSTITUTION introduced by custom, our lawyers are agreed that it is not so strong as that on fruits."\*

Thus have we endeavoured to show that there are no such real or perfect rights pertaining to land as those termed hypothec; that if the rentowner agrees to receive part of the fruits for the lease of his land, he is entitled to retain these fruits; that, if he agrees to let his land for money, he has a right to get that money before giving possession, but if (for the sake of greater rents), he gives credit, such credit should be at his own risk, not to the public detriment. Besides,

\* Erskine's Institutes.

there are no reasons whatever that can justify the implements of husbandry and other effects being sold to form a preference fund for rent. Further, the present practice of claiming grain and causing a second payment of it, after its being publicly exposed in the open market, is contrary to all justice, and ought not to be tolerated in any free country. Were this principle, indeed, extended to what might be fairly considered its legitimate extent, it would overturn the present construction of society, and be productive of the most disastrous results.

Let us now look into the economy of this law of custom or usage. Let us inquire what kind of fruit this tree bears, and perhaps it will be found more deserving of attention than most people have hitherto imagined.

As we have in last chapter inquired particularly into the effects of depopulating country districts, and sweeping the inhabitants into towns, let us reassert that this is bad policy, and that it is destructive to the best interests of our country. Let us now ask, does the present practice of hypothec help to accelerate this growing evil? We say that it does. It is one of the sewers that serves to fill that great cess-pool. Many will, no doubt, smile at this saying. Who cares, say they, whether the population be swept into towns?—Let them take care of themselves. We refer the reader to the first chapter for our views on this point, and we are not ashamed to reiterate that what concerns the masses of our countrymen ought to be the first question of an economist.

It has been a common practice, of late years, to combine the small farms into one on the expiry of a lease. Many proprietors seem to think that agricultural prosperity and large farms are synonymous expressions; and in many districts, accordingly, the large-farm system has been to a large extent adopted. Thus, many families are thrown destitute of a home, and, as cottages are proscribed, the only resource they have is to repair to a town. In some instances, this

might take place independently of hypothec, but in a large district of country, we have seen this system carried out, and there, if it could have been attempted at all, it would not, at all events, have been carried to nearly such an extent, but for the peculiar facilities held out by hypothec. *Thus, hypothec is a depopulating instrument.* Many farmers, who were scarcely fit for managing their small farms, have not hesitated to lease farms with three times the quantity of land. Now, nobody would have trusted these men with farms, if there were no more than personal security to be obtained. We have seen the evil of hypothec operating in many parts of the country, and every period of nineteen years brings it into fresh operation. Probably by its interference, one-third of the families are turned adrift at every lease-letting; perhaps the proportion is a great deal more—a half it may be, yet we are safe in saying one-third. We are not called upon to say what proportion of inhabitants there should be in the country, and what in the towns, but we merely note this as an active agent for depopulating the country, and filling up the towns. It is also noticeable, that as you increase the size of the farms, the bothy system is introduced; for in the natural course of things this would not be tolerated; we believe its origin can be traced to laws like the one now under consideration. We are almost certain that, if this law of custom were placed on a just footing, large farms would be at a discount, and that very soon. Numerous farm-houses, now lying waste, would become the residences of respectable families, instead of being the adjuncts of larger farms. It would be very invidious to point out individual cases, yet such could be easily done if necessary.

THE PRACTICE OF HYPOTHEC IS HOSTILE TO AGRICULTURE. It undoubtedly has the effect of withdrawing capital from farming, because, if the landowner had to accept of the personal security only of the farmer, he would not trust him so readily as he does at present. We see men taking farms every day, whose capital is far from being sufficient. We re-

member of its being stated that some landowners would not accept of a tenant, unless he could show a clear capital of ten pounds per Scotch acre. We suppose it is nearer the third of that sum that is generally used for a farm, instead of the whole. Since the general reduction in prices, ten pounds go much further than the same sum would some years ago; but on the other hand, if the farming must be higher, more capital must necessarily be needed. There is a great deal of misapprehension prevailing on this subject. We hear every day farmers saying: Why, we can work our farm with such and such capital; it is a great deal too little, but we must just manage the best way we can. The question is always, *How little* can we do with? It is true that there is a great proportion of farmers who have spare capital, but as it is not the custom to farm high in their neighbourhood, they do not lay out more capital than their neighbours. Example has a great effect upon individuals; if an inferior farmer were to go into a highly farmed district, his backward system would form a striking contrast with the better state of the neighbouring farms. One of the most enterprising farmers in all our acquaintance informs us, that it is his decided opinion that the productions of agriculture could be doubled, if sufficient capital were expended. Perhaps he exaggerates, but of this we are quite sure, that there is not nearly so much capital expended as there ought to be, and that if it were judiciously laid out, the produce could be greatly increased. Numerous examples will suggest themselves to the reader of what is now stated. Look, for instance, at the excellent effects produced by the government capital, lately lent for draining. This might convince people of what could be done by improvements on a large scale.

But we shall be immediately told that other people trade above their means as well as farmers. Quite true, but there are two remarks that may be made here. 1. That, if merchants or manufacturers do extend their business beyond what the amount of their capital will justify, they have no

law to enable them to do so. This practice of hypothec enables tenants of land to farm above their means, but we know of no such temptation being held out to others. No doubt there are many manufacturers who would embrace the opportunity if they had it, but it is well that they have not. If every man could bond his stock in trade, to the extent of one-third at any time, and two-thirds upon an emergency, the effect would be highly injurious to the country generally ; its undoubted effect would be, that every one would be speculating above his means, grasping at more than he could manage advantageously, and bankruptcies would be much more frequent than they are at present. 2. That supposing a merchant borrows a sum of money to enable him to carry on his business, he turns over this sum several times in a year ; thus, the interest is only a small item on each transaction. But a farmer cannot "turn over" his stock so often. The manure that he puts into the ground takes several years to return its outlay ; the stock, also, requires to be kept for two or three years before it can be brought to market, so that the interest upon these sources of outlay is considerable. Thus, the temptation to farm beyond the limits of capital is great, and from the long time it takes to return, it is not profitable to farm upon credit.

THE HYPOTHEC FOR RENT ACTS AS A BOND ON THE FARMER'S EFFECTS. It is true that he may not pay interest upon the bond, at least directly, but it is really farming upon credit instead of capital. On many estates, the facilities for this are great, for the tenants pay no rent until a year after entry. No man will deny, that if the landowner had no preference over the stock, he would look to see how the tenant stood, he would inquire whether he had sufficient capital to work the farm profitably ; for, on his so working it, would depend his ability to liquidate his yearly obligations for rent. Thus, more capital would naturally be sunk upon improvements in land ; our country, as a whole, would be greatly improved, and we would be less at the mercy of

foreign states for the supply of food,—a result which, according to some politicians, is a very desirable thing. It would be difficult to calculate the extent of the improvements that would be carried on, but for the interference of hypothec. We are not very sure but that it would cause the landowner himself to “improve,” in order to induce tenants possessing capital to rent his lands. Any antiquated practice, indeed, that has the effect of diverting capital from the improvement of land, we hold to be very bad. It is quite unsuitable for the present times; it would have done well when the corn-duties created a monopoly to the tenant, and ultimately to the landowner. But the key-stone is taken away. If our agriculturists be sluggish, why should the consumer be obliged to give a higher price for his food on that account? Who should prevent him from purchasing from people who offer to sell cheaper? But if land be unimproved—if crops be destroyed by game, the offending parties must now suffer; the loss will now lie upon those who actually create it. From the artificial height to which the price of corn was forced by means of the prohibitory duties on importation, other products were pushed out to make room for it. Now, we apprehend that grain can be produced with a smaller outlay of capital and superintendence than lint, or some other agricultural products, and therefore long furrows were desiderated in order to save expense in ploughing; in other words, the small farmer had to make way for his greater neighbour, who could raise more *grain* than he could do, and as “hypothec” afforded the laird ample security for his rent, he was thus put into possession of several farms. The practice of hypothec and the corn-duties thus united in forcing out more troublesome crops, and hence the small cultivator had to make room for the greater. This, however, fell more properly under discussion in the last chapter; we merely wish at present to note the relation betwixt large farms and hypothec, and also the growing of grain in opposition to such crops as lint, &c. By this borrowing system being carried on



under such favourable auspices, the farmer has just to transfer part of his stock to the new holding to make the landowner secure. *Hypothec thus holds out a strong temptation* (if it does not offer a premium) for farmers to enlarge their farms, or to take new ones.

As agriculture is one of the most important interests in the kingdom—as there is such a large number of people dependent upon it for support, and as its transactions are so numerous, it will be admitted that the laws which regulate it should be just, since it is plain that any vicious principle at work regarding it must tell upon so many interests—must affect a great many dealings, and injure the country generally. Let us now ask—

*How does hypothec affect farmers?* We have already shown that its provisions enable a man to undertake the farming of a great deal more land than he would otherwise do. This is observable at every letting time, especially in the landward districts. Its effects may not be so observable in such districts as the Lothians, but perhaps it was brought into operation there when the farms were enlarged. You will see that each man is anxious to grasp at the farm of his neighbour, which he frequently is successful in procuring. Thus a considerable number of farmers are thrown out of employment every year. Now, as farmers have generally been all their days employed in agricultural pursuits, and the consequence is that they are in most cases unfit for any thing else, at least they cannot so easily adapt themselves to varied circumstances as a business man,—all their ideas, their hopes, and even their dreams, being about farming,—if they take up with any thing else, it is more from necessity than choice. Suppose that one hundred farms are to let, you may calculate that thirty of these will be amalgamated with others, so that thirty farmers have to look out for other places. Each one of them, anxious to do well for himself and his family, endeavours to find a farm somewhere; and the consequence is, that a great competition is created. This is not entirely traceable to the faci-

lity hypothec affords, but it is very much owing to it, as we have seen in numerous instances.

There is no more common subject of remark than the high rents that farms still bring, notwithstanding the depreciation of prices. Instead of a decrease, you frequently hear of a rise in the rent, and that after the late tenant was unable to pay it. As long ago as we can remember, the lairds were universally blamed for taking too high rents; farmers now give them a verdict of acquittal, and say that their own order is alone to be blamed, and that lairds would act foolishly in refusing high rents when offered them. It remains, however, an unexplained phenomenon why these parties do come forward and offer so large rents. Let us endeavour to throw some light upon this matter, and, if possible, solve the problem. Suppose that a farmer fortunately sends his stock to the London market on a day when there is no other but his own forward, there is a scarcity, and each buyer is anxious to secure the lot, and accordingly each offers a higher price to outbid his neighbour. Thus competition commences, and it, of course, raises the price. If, however, there was a lot to suit each buyer, the price would remain stationary, there would be no competition. We have stated that out of a hundred farms vacated, only seventy farmers will be needed for the future, but the whole hundred farmers still try to get each a farm out of the seventy; thus *competition begins*, which, of course, always raises the price. If you look at the number of farmers who are out of places, you will see that it is not an invasion\* of other people into their territory that causes the overplus, because as many farmers die out as are

\* It is somewhat strange, that a great number of people coming into a given district has exactly the same effect in raising rents as a like number being put out of it. For the outgoers, anxious to remain in the district, invariably bid higher rents in order to get locating; in both cases the number of farms to let is less than the demand, and hence the rents rise accordingly. Farmers should think of this curious and remarkable fact, and they will find that the increase of rents is not accounted for by a few merchants taking farms, as some farmers suppose.

imported from other trades. It is the withdrawal of a large number of farms from the market annually that causes the deficiency, and these ousted farmers naturally seeking to get other ones, the competition is very much increased, and, consequently, the rents are raised. Notwithstanding emigration to Ireland and other places, the unemployed farmers are still as numerous as ever. The corps used to be recruited from the ploughmen, who were able to take a small holding formerly; but for the last twenty or thirty years the supply from this useful body has not been great, as has been already shown. The farmers are thus brought to fight against their own class by the practice of hypothec, and, undoubtedly, there is no one class of society that suffers more severely from its operations than the agriculturists themselves. We have always calculated that it increased the rents five per cent. at least, probably much higher. We know of nothing that gives the owner of heritable property such an advantage over others. We would like to see him obtain a *fair market value*, but nothing more, because any extra price must to that extent abstract from the rewards of industry. Such abstractions from the common earnings may not be missed, but they are not on that account the less injurious, and, doubtless, to no small extent they damage the general wellbeing. If the previous reasoning be correct, the practice of hypothec will be seen to be an unfair instrument in the hands of proprietors, enabling them to secure more than their legitimate share of the common gatherings.

It is a matter of frequent observation, how lightly the claims of respectable tenants are esteemed, when they express a wish to remain on a property or in a district. One might naturally suppose that the lairds would desire to have such men to cultivate their ground, possessing, as they do in a high degree, industry, enterprise, and capital, and yet it is only as the greatest favour that they will have their leases renewed, and not even then if any other can be found to outbid them. There is surely something anomalous here, and deserving of

inquiry, because in a natural state of things this could not be the case. The three qualifications already mentioned—industry, enterprise, and capital—are worthy of being respected everywhere, yet in the factor's counting-room these are unavailing; the applicant must cringe, and bow, and be obsequious, while his valuable qualities are viewed with indifference, and it may be contempt. Had factors to look out for good customers just like other people, they would appreciate the value of really respectable tenants, and such men would be placed on a far different footing. They would not be taking their station so far below the laird, and he would not be placed so high above them. A more healthful tone of feeling than at present exists between landlord and tenant would be observable.

There is another bad economical effect that hypothec has upon society, and that is, it enables an insolvent farmer to keep his farm, and to keep it for a number of years. He can do no good to it himself, and yet he occupies the place of another who might improve and develop its resources. If a party can put one-third of the proper stock upon the farm, the laird is safe, he needs not care whether others are involved or not. If any creditor should attempt to poind, the landowner secures the effects by sequestration, and this system may be carried on for a number of years. Many unsuspecting parties may be ensnared, by giving goods, signing bills, &c., &c., and yet the landowner secures the whole effects. It thus appears that the landlord can afford to keep an insolvent tenant with impunity to himself, although it may be to the detriment of many others. Now, it does certainly strike a thoughtful person very forcibly, that if the laird were placed in the position of an ordinary creditor, he would have, for his own sake, to act a little more warily; he would have to be a little more cautious in introducing men into a countryside by giving them a preference to the lease over many known and respectable offerers. Glitter is, by this law, made as good as gold; but if things were allowed

to take their natural course, *real sterling worth* would be more easily distinguished from mere outside display.

*How does this custom affect the relation of debtor and creditor?* We have formerly stated, that if a landowner chooses (for the sake of advantage to himself) to give credit, he ought to run the same risks as ordinary creditors. He is not compelled to give credit; he may, if he choose, let all his farms for forehanded rents; or, if he revert to the primitive system of a share of the fruits, he may claim them on the ground. But the peculiar hardship of the present practice is, we think, indisputable. A tenant undertakes more improvements than he can afford to pay, the farm is all the better of them, yet the contractors have no claim for a shilling until the whole claim for rents (it may be for old ones) is settled. Is that fair? is it justice betwixt man and man? A man takes a farm with the rent too high, yet this rent high as it is must be paid, although no other creditor (who has not *overcharged* his customer) should get a penny. A farmer has his crops destroyed by game, or some other cause, over which he has no control, and yet the *money claim* for rent supersedes all others. Then it is seldom a tenant is roused out for one year's rent; unless there be some quarrel with his landlord, he is allowed to go on, the sequestrations still being continued, so that creditors run a bad chance of getting any thing in the shape of a dividend. Again, the law expenses are no inconsiderable item. The valuations and renunciation of lease cost several pounds, not to speak of other extras that may be brought up; a neighbouring farmer sells the tenant in question a few cattle, and next day they may be poinded, and afterwards sold to pay the laird; how these cattle can be justly confiscated in this manner, is more than we can tell.

We may safely characterise hypothec as a bond over moveables; now this appears to us to be contrary to common law. A bond over a ship while building constitutes no preference. To be sure, the advances made upon goods by a

consignee are preferable while he holds such goods ; but for movables to be in *a man's possession*, among which he is every day buying and selling, and yet to be under a bond, is, to say the least of it, an anomaly, and certainly seems contrary to the principles of common law. The Roman landowner was often obliged to advance the stock and instruments of husbandry, and yet he had to content himself with a partition of the fruits.\* What a contrast from our system, where he gets nearly the whole ! With us, the landowner's monied claim is now thought more of than another's in a bankruptcy, and because his revenue is derivable from land, it is, on that account, rendered more secure to him than the man who derives his income from the sweat of his brow ! It does not consist with justice that such things should be, and it is injurious to society generally.

We have made some passing allusions to corn being openly sold in the public market, and yet liable to be seized by the landowner. We know of no corresponding case to this in any civilised country,—in fact, it is fairly without a parallel. We venture to affirm, that were there no standing armies to enforce decisions, no such practice would be tolerated. It strongly reminds one of Rob Roy lifting his friend the Duke's meal-rents after the factor had duly discharged the tenants, and given them a receipt for the quantity. Rob might have some claim in equity on his Grace although the law did not admit it. Our laird has now a claim on grain in a corn-factor's loft although it has been fairly bought, and fairly paid for;—there may be “law” in this claim, there can be no shadow of justice. How our commercial men allow such an injustice to remain in our country in this enlightened age, is certainly more than we can explain ; we have no hesitation in proclaiming it a disgrace to the mercantile intelligence of the present day.

\* Gibbon.

## CHAPTER III.

### ENTAIL AND PRIMOGENITURE.

“LAW OF ENTAIL.—A Roman testator could name any person to be his heir, but he had not the power to name substitutes; for thus says the maxim, NO MAN CAN NAME AN HEIR TO SUCCEED TO HIS HEIR. . . . This maxim, then, is not founded upon any peculiarity in the Roman law, but upon the very nature of property.”—*Law Tracts*, p. 124.\*

REFERRING to a former chapter for a notice of land, we have shown that it is given in use, or loan, to mankind; that the government, as trustees for the public, assume possession of it, and let it out, in patches, in return for value in money, or service received.

This lease of the earth for the use of mankind, being the gift of a bountiful Creator, no laws can, or, at least, ought, to interfere with a righteous division or appropriation thereof; in other words, the rich are not to possess it to the entire exclusion of their poorer brethren. Because a man has gathered riches, and that, too, very likely by questionable means, he is not to humble his poorer, though, perhaps, more conscientious, brethren; further, because he is possessed of landed property, he is raised quite high enough over the rest without any *legislative interference* to perpetuate to future generations the fruits of his rapacity. But man, when not brought under Christian influences, is a tyrannical being; he cares not for his neighbours, provided only his own ends are served; and further, in some countries,

\* Pages 120 to 143, contain an excellent view of the bearing of law generally upon the entail regulations.

rich people are so destitute of any semblance of patriotism, that they would embalm their misdeeds to the latest time, boasting only in their shame. Turn to ancient history and behold the difference ! Look at the list of Roman emperors, and count how many rejected their own progeny, and selected successors out of other families, nobly preferring the good of their country to any hereditary honour bestowed upon their posterity ; and perhaps they acted kindly to their families in preventing them from occupying positions they were unable to fill successfully. How different from our Scottish proprietors ! Look at Mahomet ; bad as he was, yet not so vain-glorious as many in our day, he never whispered a wish as to who his successor might be. Instead of absorbing the public funds, he upheld his government without any expense.

The sacred bard, who saw far into the human heart, says of men that they call their places after their own names, thinking they will thereby be perpetuated to all posterity. This is all vain-glory ; many who, instead of procuring a name for good actions that would cause them to be respected while living, and honoured when dead, only think of perpetuating their fame by fixing it to a piece of land. How contemptible ! This may be a foible with many of them. We can have no objections to descendants calling their house or farm after some greedy progenitor ; all we ask is, that they will not call in the assistance of the legislature to help them. It may gratify some family pride to think of having their estates handed down for thousands of years in their own direct descent ; but is our country to suffer that *their* avaricious desire for vain-glory may be pandered to ? Is the improvement of our resources as a nation to be hindered ?—is the trade of our merchants to be sacrificed solely to gratify the inordinate desires of a few ?

But pursuing the plan we have laid down for our guidance, let us ask what is the *natural way* in which property should be distributed ? Seeing that property in land is an



institution, is it destined solely for behoof of one class, to the exclusion of all the rest? In the original grants made to Noah and Adam, was there any difference made betwixt the elder and the younger son? It is distinctly said to "sons" without limitation. We have found that the Government assumes proprietorship of all lands, and that it gives them to certain individuals. What we ask is, the criterion by which Government is guided in the distribution or allotment of lands? Is it favouritism? Whatever was got by this means, was robbery. The only way to judge now is, *who will give the greatest price for the allotments*. Money is the grand test, and the man who can offer most of it in exchange for lands, is presumed to be the man best entitled to get them, and who is expected to make the best use thereof. If it be *service* or *homage* that is the test, then the lame and the blind are not chosen, just because they can give no service in return. We suppose that when land was first given by the king to his vassals, any one that became lame or disabled gave up his portion to another. If he could not yield service in battle, he must yield his possession to sustain a man that was able to do so. Cowardice in battle incurred forfeiture of lands.

Land being a gift to *all*, it follows that all have equal rights thereto originally, and whatever interferes with this law is contrary to nature and justice. *All* should have the same opportunity of becoming possessed thereof. The rich man, on account of his *riches*, possesses that superiority in the race over his poorer brother. He is entitled to this advantage; and it consists with the interests of society that such should be the case; but he is entitled to no more. Men may differ in *degree*, as the poet says; in *kind*, all are the same. The rich man ought to have superior advantages *directly* from his riches. We deny that, after having acquired the property, he may seize any unfair means of keeping others out. Let *them* have the same chance as he had himself,—neither more nor less. Righteousness or justice harms

neither an individual man nor any class of men. It is a straight line drawn without any sinuosities.

At this stage, it may not be amiss to say something about Socialism. In arguing with many people, if you denounce large, overgrown estates, they will immediately twit you with Socialism, or refer you to the state of France.\* With some, you must either wreck the ship on Scylla or Charybdis; there is no middle passage that can be taken. Doubtless, property in France is by far too much subdivided; and it is so also in Germany; but we complain as much of a *compulsory subdivision* as of a *compulsory enlargement*: the one is as contrary to nature as the other. If man becomes owner of a property, either by his own industry or from its having been bequeathed to him by another, he has a right to dispose of that property as he may see fit. He may reward the best of his family with a share, and, if he be cruel enough, he may leave it all to one. We can see no difference between heritable and movable property, and we would like to see no difference recognised by law as affecting the one or the other. If heritable property were freed from feudal bondage, some men might be found who would still, for some vain-glorious end, bequeath all the estate to the eldest son; but they would be the exception rather than the rule. For the honour of humanity, we hope few would be guilty of such misconduct. The force of public opinion would deter men from such unwarrantable acts of cruelty; still, it consists with the interests of society that the father should be the judge of the rewards he may bequeath to each of his offspring. Should one of them disgrace himself by bad conduct, it would be unfair to compel the father to make him equal in portion to one who had behaved well, and was dutiful at all times. When the parent neglects to convey his property by will, the state must step in and see an equitable division. By the Mosaic law, the eldest son obtained a double portion; but, as that was a positive law addressed

\* See Dr Chalmers's Political Economy.



only to the Jews, it is questionable how far it ought to be copied, or whether, in this respect, its precepts are binding at all. There is undoubtedly much of the law of nature in it, which, of course, is binding upon all men, and at all times. Socialism is by many considered only as a term that can hardly be mentioned without exciting fear and trembling. In its worst form, it is certainly a dangerous thing for society. John Stuart Mill does not approve of swamping individual property; yet he says, "Far, however, from looking upon the various classes of Socialists with any approach to disrespect, I honour the intentions of almost all who are publicly known in that character, the talents and acquirements of several; and I regard them, taken collectively, as one of the most valuable elements of human improvement now existing." Discarding, as we do, Socialism in all its forms—Communism, St Simonism, and even Fourierism, the best of its systems—yet we would propound one question, the discussion of which would be most beneficial in its effects—Whether Socialism, or Latifundia (such as Scotland exhibits at present), is the worst and most injurious system to society? Of these two great evils, which of them is the least—a compulsory accumulation, or a compulsory subdivision?

Nature flows like a quiet stream; her banks are straight, and there is no ruffling of them, unless wicked men throw in on each side croys and breakwaters; then, of course, the current must be interrupted, it must be impelled from one side to the other. What we object to is, *croys being allowed at all*, either from the people on the one side, or from the aristocracy on the other. The stream will find its own level, and any interference is only to make bad what was good before. Many are afraid that, if people were allowed to divide their heritable property as they do movables, confusion would rapidly ensue; but numerous examples could be adduced to prove the contrary. No doubt, were such a change taking place, an improved system of conveyancing would be indispensable; the expensive and cumbersome

feudal system would need to give place to a better and more civilised form ; and with these two changes a great improvement of the whole people, in manners and morality, might be reasonably expected. If men were left free to sell their landed properties, others would be left as free to purchase, and, looking into the condition of many countries where property is free to be sold, we cannot but think that, as far as this law is concerned, we are far behind them. Is it to be imagined for a moment, that men will do as much to improve a piece of land belonging to another as they would if they had a permanent interest in it ? When a farmer brings his farm into a high state of cultivation, the improvements he has made only incite the cupidity of others to outbid him for the ensuing lease. This is very frequently the case ; and it is consistent with every day's experience that a man will improve much more on a place where the benefits will be ultimately his own, than where he has only the use of them for a very limited period.

Looking at the distribution of property in the light of futurity, we have not one fear but that it will, of its own accord, reach its best and truest level. If, on the one hand, there be dividing causes, on the other there will be accumulating ; and if we would hazard a guess at what will be the case in the progress of time, it is likely that rich soils in the neighbourhood of towns will be purchased by industrious and thrifty husbandmen, while land, and especially poor land, in remote districts will be held in larger divisions. We have never heard the distribution of land in America complained of as being in too small divisions ; undoubtedly, if that nation had adopted our barbarous method of managing property, they would have been much further behind in social comfort and national prosperity than they now are,—if we had adopted theirs, pauperism, crime, and over-crowding in towns would be much less talked of. Probably New England, more than any other country, could give us the best example of a right construction of the law of inheritance, it

being found most beneficial both for individual interests and for the public good. Society there, according to Sir Charles Lyell, has reached its highest altitude, and Mr Mill says, the "ideas and practice in the matter of inheritance seem to be unusually rational and beneficial." The United States is confessedly the most prosperous country in the world, and yet nearly the whole farmers there own their farms. There is little landlordism in America, in the European sense of the term,—every man does something for the common good, instead of acting as a drag on the march of improvement, if not actually arresting its progress altogether, as in some places which we could name. This country ought to be much better off than America; we started long before it; we possessed capital and improved land; institutions ready made, all of which were there unknown. See the difference now. In many departments they beat us hollow. In the art of living, we are novices compared with them. While they improve waste land, we are fast retrograding in many respects. They have land and to spare, while we throw waste what has been cultivated, and that for a species of gambling?

It is not from the want of industry on our part that the Americans shoot so far ahead of us; instead of being a country going backward in energy, we have all the freshness and vigour of youth,—the whole difference lies in our being burdened and oppressed with *Feudal Institutions*. It is not because they are republican and we monarchical, that they get on at such a rapid pace before us; give us institutions as free from feudal oppression as they have, and let us try. Their laws help and assist them forward in the race—ours keep us back. We would willingly go forward, but we are not allowed. There is abundance of waste land in Scotland; there is abundance of capital ready to enrich it; there is energy enough as well as skill to apply it, but then the land is locked up,—what can we do?

The Americans twit us with being under the power of an

aristocracy; such is not the case—every person is free in Scotland; but our laws, or at least many of them, are unjust and oppressive in regard to what only can push forward an individual or nation—*industry*. Let the Americans have their industry gagged and cramped as ours is, and then they will boast no more, they will fritter down into insignificance. All that we contend for is, that land should be left free, unshackled, for that purpose which nature has intended; that no family ought to be in the eye of law better than another; that no kind of property be held more sacred than another; and that the land of the rich should not be made more secure than the earnings of the poor.

In order to obtain a correct idea of the origin of the law-rules of entail and primogeniture, it will be necessary to look for a little into the economy of the feudal, or, more properly speaking, military system. After the Roman empire was broken up, each country relapsed into a state of anarchy and confusion. The land was held by *allodial* tenure, that is, without a superior. But the power of the barons began to be felt, they began to wage war with one another, and more especially upon such as had no powerful protector. This was felt to be so great an evil, that many became voluntary slaves, enjoying in return the protection of their more powerful master. Many also gave their lands to convents and monasteries, whose sacred character shielded them and their vassals from violence.

In Scotland the land was alienated from the crown originally in return for *services*, exactly the same as the Cossack settlements hold at this day from the Russian autocrat. A warrior obtained the grant of a certain piece of ground, guaranteeing in return the services of a certain number of men to defend the country,—for at these times there were no standing armies, no soldiers paid in cash. The payment they received was getting their lands free, or nearly so; for payment of money-rents is mostly a modern invention in Scotland. The warrior, or baron, or thane, then let the lands in

return to vassals, but whether he got originally any return therefor, except services, is unknown; if any payment was made in cash or in kind, besides the homage, it was very small. "The powerful vassals of the crown soon extorted a confirmation for life of those grants of land, which, being at first purely gratuitous, had been bestowed only during *pleasure*. Not satisfied with this, they prevailed to have them converted into *hereditary* possessions. One step more completed their usurpations, and rendered them unalienable."\* "Not satisfied with having obtained a hereditary right to their fiefs, which they formerly held during pleasure, their ambition aimed at something bolder, and by introducing *entails*, endeavoured, as far as human ingenuity and invention can reach that end, to render their possessions unalienable and everlasting."†

But it appears that centuries elapsed before landed possessions were claimed as hereditary. "It was not till late in the history of most nations, that the right to dispose of property by will was introduced, and it may be asserted that while the feudal system remained in full force, no such power was enjoyed generally in any part of Europe."—(*Brougham*.) "The *right* of possession continued for the same time only that the *act* of possession lasted." In some countries the land was divided yearly. Speaking of the manner of holding property under vassalage, Lord Brougham says: "Nothing ever was contrived more completely fitted in all its parts to inculcate and preserve in men's minds a sense of the inferiority of one class and superiority of the other." . . . "Thus the feudal principle of subordination and allegiance, introduced into the free countries of the West, had much of the subserviency and sycophancy which reigns through the courts of the Eastern despots." . . . "Such a system of superior and inferior—of dividing the people into different classes, all rising one above the other in degree, annexing not only consideration but power and privilege to the upper over

\* Robertson's Hist. of Charles V.

† Hist. of Scotland.

the lower orders, and making it a *kind of pride and glory* for every man to be *obsequious* towards somebody, was certainly never before feudal times imagined, much less brought into practical operation. Its worst tendency was to *lower every man's mind, to pervert his feelings, to destroy the independence of his nature.*"\* In our times we recognise the person of no one as better than another; we cannot say so much of the property of favoured persons. How much property, we ask, is held in Britain, at the present moment, but in the manner now described?

The undue influence exercised by the barons, had unquestionably a most pernicious influence on general society. Let it not be imagined that we intend to cry down aristocracy, we only object to its undue preponderance in the state; we would like to see it standing upon its own virtues rather than upheld by unjust laws. "The endowment of one son with a large income and extensive privileges, to the exclusion of the other children, has had the effect of both keeping land in great masses, and of extending in every quarter the aristocratic influence and character." It is necessary for the good of society that some be exalted *by merit*, that others may look up to them. This must be confessed as by no means savouring of obsequiousness or sycophancy and subserviency, which an undue favour to aristocracy has always induced.

But some will answer, If the aristocracy have not their estates entailed, their class must fall. But in order to have an aristocracy, it is not indispensable to have it *hereditary*. Believing, as we do, in the value of the institution of an aristocracy, we say that the great loss is that it is *hereditary*. It could, undoubtedly, accomplish a vast deal more good if it were an honour that could be obtained by patriotism, instead of being lavished, as it too often is, upon unworthy persons. Lord Brougham asks: "Can any thing be more absurd than the notion of a hereditary judge? The chances of profligacy, dulness, indolence, ignorance, imbecility, are all over-

\* Lord Brougham.



looked." What is bad for the bench cannot be good for the aristocracy.\* *But how did these honours become hereditary?* "With an ambition no less enterprising, and more preposterous, *they appropriated to themselves* titles of honour as well as offices of power or trust. These personal marks of distinction, which the public admiration bestows on illustrious merit, or which the public confidence confers on extraordinary abilities, were annexed to certain families, and transmitted like fiefs from father to son by hereditary right."† Robert Burns, who, on almost all occasions, showed a vast amount of common sense, did not think much of great titles unless upheld by something more substantial :—

"Ye see yon birkie, ca'd a *lord*,  
Wha struts, and stares, and a' that,  
Tho' hundreds worship at his word,  
He's but a *coof* for a' that."

Those who know the amount of scorn and contempt conveyed by the Scotch word "*coof*," must have no high respect for this "*birkie*" who enjoyed the title of "*lord*." That there may be *titles* of honour is not denied,—we have unfortunately numerous examples before our eyes; that there are *hereditary honours* is what we are not so sure of. If hereditary honours be wanted, we might hint that the men who obtained the original grants of nobility in Scotland had *little enough for themselves*; they laid up precious little for their posterity for a stock to trade upon. But it may be said by some, that we object to present possessors holding that rank. We say no such thing; their present position enables them to run the race with greater advantage,—what is to other people uphill work is to them downhill. Before a poor man can obtain such a prize, he must fight his way against "*poortith cauld*," ignorance, and prejudice; *they* start with what business-men call "*a connection*;" *they* have education and plenty of money—what more would they

\* "Nobility of birth commonly abateth industry."—*Bacon*.

† Robertson's Charles V.

wish? The present mode of assuming hereditary titles was comparatively unknown among Highland chieftains. They required to show their claim to the honours of their predecessor, by some great achievement that would ever after establish their fame, and give confidence to the clansmen whom they led to battle. If even such an incitement as this were declared to be necessary, would a vast impulse for good not be given to our aristocratic institutions? Would the demand for such an effort not develop the latent powers of many able men whose services are all but lost to society? Their honours are a sinecure and a monopoly at present, and if monopolies and sinecures be bad in every other place, can they be good here? We do not by any means say that the aristocracy are lower down in the scale of intelligence than others, but certainly among so many, some must be found *unworthy of the place they occupy*. "As snow in summer, and as rain in harvest, so honour is not seemly for a fool."

Bad as the feudal system undoubtedly was, it was hardly so very bad as some people would like to make it. In these good old times they had little idea of a man getting involved in debt, and yet being able to hand his estates free to his family. They were hardly so foolish as to tolerate such nonsense. Some wise people may shake their heads and say it is law. It is arrant folly. We can find nothing like entail-law in the *Regiam Majestatem*. "But gif there may be mare sonnes begotten of ane soccoman, they all succeid equally. But gif their father is ane knight, haldand his lands by service of warde and relieve, the first begotten only succeids."

It was in the reign of Charles I. (1625 to 1649) that entails were introduced into Scotland, after the feudal power of the barons was checked, except in the legislature.

But as long as the barons were allowed to retain *armed followers*, they infested every country where they got footing. Historians all concur in denouncing their arrogant assumptions. This body kept Europe for many centuries in a perpetual broil; they were hostile and traitorous alike to king

and country. One historian characterises them as "ferocious wolves." They grasped the reins of government, and also assumed the power of heritable jurisdictions. Kings had little else to do in those days but to keep the nobles within something like reasonable bounds. The reader may easily verify this assertion; let him turn up any history of Scotland—particularly Dr Robertson's, or look for a few minutes into his history of Charles V. As order began to be introduced, the power of barons began to be curbed; their followers were reduced in numbers by special law; but when baffled in physical force, they found out other methods of perpetuating their authority—they grasped the *legislative power* and got laws made to suit themselves. This assumption continued until 1832, when the mine exploded. They could not get their wicked schemes carried by *force of arms*, but they got their possessions rendered inalienable by a quirk of law. Properties were liable for debts contracted by the owner until 1662, when the case was tried by two noblemen and settled against creditors. In 1685, a bill was carried confirming this decision. Those who pay great respect to institutions on the score of antiquity may have some little claim to set up for primogeniture, but for entail law-rules they have none.

"A tailzied fee, therefore, from the French *tailleur*, to *cut*, is a general term, comprehending all destinations in which the legal course of succession is altered, and one or other of the heirs at law excluded or postponed. And a male fee is a special kind of entail by which females are excluded, and the heir male called to the succession."\*

For what purpose was primogeniture invented and entail made to perpetuate it? "Primogeniture," says Erskine, "was originally made part of the feudal plan, *out of favour to superiors*, that they might not be in danger of losing their vassals' services by the fees being divided into small parcels, and was soon after adopted into our law, with universal ap-

\* Erskine's Institutes of the Law of Scotland.

probation, as the most effectual expedient for perpetuating the dignity and influence of great families, and for the security and defence of our country in times of public trouble.”\*

Ask any person in regard to the reason for entail and primogeniture, and he will tell you they are for keeping up great families and estates. Is there any harm in inquiring whether it is necessary or even desirable for society that monster estates should be kept entire by compulsory enactments? “Primogeniture was instituted out of favour to superiors.” The reader will please refer to our second chapter, where our principles are laid down respecting persons in the eye of law. We deny that any man or any class have a right to ask for such “favours;” it is unfair in legislators to give away, or, as sometimes happens, to appropriate to themselves such favours. We have also fault to find with the term “superior;” it is perhaps indispensable in our system of feus, but if there be any meaning in names, it is certainly not proper. In the eye of natural law, no man can be superior to another—all are alike; and although no right is now included in this term as to persons, yet still it is wrong to use it even in respect to property.

It seems to be taken for granted by most people, that to “perpetuate the dignity and influence of great families” should be a matter of primary importance with our legislature. If our doctrine of protection be sound, then “large families” can only be kept up at the expense of smaller ones. Where do we learn this lesson of making the rich richer, the poor poorer, and the great greater? That there will be rich and poor to the end of time, I doubt not; but why the inequalities in their condition should be made greater by Acts of Parliament is certainly more than we can explain. Socialism aims at making all alike. This law is about as far wrong the contrary way. It aims at making men as unlike as possible.

It may be a most agreeable thing for a landowner to think of handing down his estate to posterity bearing his

\* Book iii. tit. 8, § 6, of Institutes.

name. He may not care whether by such an act his country should suffer; he may be utterly regardless of the sufferings of the younger branches of his family,—all may be laid at the shrine of vain-glory; but is it reasonable that special Acts of Parliament should be made to foster such pleasant and harmless wishes? It may be a long time before the world is what it ought to be, but there is no call for patronising wicked dispositions by the approving smile of the legislature. Landowners, like other people, may be foolish and vain-glorious, and some would argue that they should be remonstrated with; that their conduct should be faithfully commented on. We have great faith in philanthropy, but we think there is no use in allowing a thief to obtain power over our goods, and then trust to his honesty. If landowners are determined to act foolishly, they should not have premiums held out to them by Acts of Parliament.

It is not necessary here to expose all the faults of nobility. We only wish to combat some delusions associated with it. Perhaps one of the greatest of these is, that it is necessary and indispensable that titles be accompanied with great estates, great riches. This is another cheat of the feudal system; it leads us to wrong ideas; it gives a greater value to wealth than it ought to have, as if no man could be great or good without a superfluity of it. Turn up a page of Greek or Roman history, and see if patriots there were required to be very rich. If we are not very much mistaken, poverty, with many of them, was a boast. Who, among our great ones now-a-days, can “daur be poor,”\* except it be in consequence of extravagance or gambling? For all our boasted improvements and advancements in science, in very many things we are as far back as the world was before the advent of the Roman empire. “The insolent right of primogeniture was unknown among the Romans.”† It was the barbarians who overthrew the empire that introduced this iniquitous invention, and, instead of copying from Roman

\* Nicoll's Poems.

† Gibbon.

civilization, we are imitating Eastern despotism and Gothic barbarism.

But we are told that the upholding of a great aristocracy is necessary for securing the blessings of peace in troublous times. This is a very nice theory. If Louis Napoleon were to attempt an invasion, we would repel him quickly by a most harmless and cheap expedient—by making out a few patents of nobility. The use of powder is, at last, found quite unnecessary. Our naval marine may be sent to carry Newcastle coals, since an effectual antidote for war has, at length, been discovered; although we believe, on the contrary, that many European wars were directly caused by the nobility. The French Revolution, causing deaths numbering a million and a half, was undoubtedly traceable to the tyranny of the noblesse. Look, for a moment, into the history of our own country. What devastations were created by the one family of Douglas alone! Democratic usurpation may be bad enough, but baronial tyranny has often been its exciting cause. And yet we are told that the nobles were always the guardians of our country; they fought our battles, &c. &c. How many of them fought with Wallace or Bruce? When the storm of revolution was raised in France, who were the first to “lift” in a body? Why, the very men who had raised the storm were the very first to flee before it. So far from nobles being the safeguard of nations, they have been the greatest enemies that history makes mention of. We know what the lower and middle classes have done for liberty, we know little of what nobility has done for it, except grinding it down and oppressing it to the utmost.

Again, we may be told that if large estates were subdivided, nobles could not keep up the rank necessary for great titles,—their incomes would be so small they would have to mind the business of their estate or farm. “Whenever,” says Mill, “in any country, the proprietor, generally speaking, ceases to be the improver, political economy has nothing to say in defence of landed property as there established. In

no sound theory of private property was it ever contemplated that the proprietor of land should be merely a sinecurist quartered on it."\*

Dr Chalmers had a high idea of the law of primogeniture, and I certainly think that his love for it was based on the understanding that land should bear the whole burden of taxation. If he could have convinced the landowners of the truth of this proposition, and got them to take the burden on their own shoulders, then we could better appreciate his philosophy; but it is notorious that land does not even pay the just share of taxation effeiring to it, instead of the whole, as he certainly wished. He says that "the law of primogeniture is essentially linked with the political strength, and other great public interests of the nation." No doubt, if his theory of taxation could have been realised, he might have been able to say something on behalf of primogeniture. But how he makes out the great landowners to be "the sole tributaries of the commonwealth," is certainly more than we can understand. For our own part, we do think they are far more the reverse than any other class that could be named.

We have already stated our belief that the institution of nobility is most useful, and that it is the cheapest method that could be devised for rewarding faithful services performed to the state. But it should be sold to the highest bidders, to those who can give the greatest return for it—that is, in services. Let it not be, as was formerly the case, grasped by those who had no good claim to it, and perhaps it ought to be only in liferent like that of knighthood, or like those titles which judges obtain when they are raised to the bench. If the government be an institution having for its object the greatest good of all, as contradistinguished from pillage for the benefit of a few; if its *revenues* have to be expended for the general welfare, should its *honours* not be given for the same purpose? Now we ask, is nobility an

\* Principles of Political Economy, vol. i. p. 282.

institution for the public benefit? If it be held in trust for the people at large, where are the acknowledgments given by its holders? The office of magistrate, of judge, of prime minister, all hold from the people as superior, as the constituency; is that the case with the nobility? Do the nobility hold their titles as servants of the public? Perhaps we might whisper that the case is *vice versa*, and that the people are only for them, not they for the people.\* In this view, it does not follow that nobility, to be an institution for the public good, must be elective or not hereditary. The office of sovereign is hereditary in this country, is it any less on that account for the public benefit? There are a few silly people who really think that offices of honour are for private personal benefit. How amusing it is to hear of some very liberal bailies exclaiming, "Oh, let the honours go round; let others share them as well as ourselves!" as if government were intended only to confer titles on a few vain-glorious men! No doubt, if men, acting for the public, *do well*, should they not be honoured? but if they accept office, it must be primarily to *serve the public*, and it follows, that according to their conduct in office, so will their rewards be. We therefore contend that if we are to have an institution of nobility at all, that institution, whether hereditary or not, must be a *representative office*, *i. e.*, the incumbents must be in the light of those acting *for others*, not for themselves,—as trustees acting for the public good, not for private aggrandisement. What would we think of a provost telling us that he cared not for the public, but for himself! that it behoved him to make as much of his opportunities as he could! What would we think of a judge telling us he held his situation, not to dispense justice, but to fill his own pockets! As a private member of society, it behoves me to act for *myself*; if I accept a *public* office, it follows that if I wish to act as an honest man, I must act for the *collective benefit* of the public, not to

\* "Men in great place are thrice servants,—servants of the sovereign or state, servants of fame, and servants of business."—*Bacon*.



enrich myself at their cost. If I cannot act conscientiously for them, I ought not to undertake the responsibility.

By the provisions of primogeniture, the eldest son is secured in a large estate and great privileges; and by the enactments of entail, this same provision is handed down again to his eldest son. Let us ask whether this shelving of one man on a rock far above the ordinary vicissitudes of life is consonant with, *1st*, The good of society; *2d*, Justice to others of the same family; and *3d*, To the beneficiary himself.

If we rightly understand Popery, it exalts *one man* high above his fellows. It gives that man powers and privileges of which the exercise is highly detrimental to the good of society, and also injurious to the practice of true religion. Joseph was raised high above his brethren—they all bowed to him; but it was homage to superior merit found in him. It was not from any legal provision made by his father that they were compelled to acknowledge his superiority, and the same rule will always obtain; superior abilities and great merit will always be acknowledged, sooner or later, unless where it has to contend against the hostile influence of political institutions. When dying, Abubekr named the intrepid Omar as his successor. "I do not want that place," said Omar. "But," replied Abubekr, "*the place wants you.*" What a different spirit is exhibited here from that infused into the British constitution by entail and primogeniture! Superior worth and fitness for place have no voice in the selection. The greatest crimes against the good manners of society, or cheating in money transactions, cannot exclude any first-born from the pre-eminence over his brothers, or from holding the highest rank in society. "A man of rank at Rome was one whose ancestors had been senators or consuls, and who had himself a right to be chosen into the senate, and to keep the status of his forefathers in his house. If he distinguished himself in the station to which he had thus better opportunities of arriving than others, he was respected by his fellow-citizens;

but as merely having rank and status, he exercised no sway over the minds of men ; he claimed no respect for himself."

Large families were patronised, in order that a display of power and dignity might surround the throne. If we mistake not, some of noble families have got so much overgrown that they overshadow royalty rather than act as subservient to it. One lady, at least, is said to "come out" on great occasions with dresses that put her Majesty's into the shade. Perhaps the most disastrous influence this overgrown tree exercises, is the subserviency that it causes in more thinly peopled districts. The concentration of arbitrary power in the hands of one man—and he not perhaps the best of his kind—leads all to look up to him with a sort of fear and awe. "Meanness, subserviency, timidity, in one part of the community, was met by pride, insolence, and arrogance in the other. Persons of rank regarded all beneath them as of an inferior nature, while persons of none looked up to their superiors as more than ordinary mortals." Perhaps from our own observation we could say a good deal in support of the above ; but we forbear. There is, however, one remark which is called for, and that is, that large properties and extensive tracts of country being exclusively held by one man, personal liberty and true religion are ignored, unless such things please him. This is observable every day. Now, if there were proprietors settled in a given district, the exorbitant power of one would be kept in check by the rest, and hence a better feeling of liberty would be observable in the whole district. At present, however, the caprice of one puny mortal may banish hundreds from their native district, should they attempt to think for themselves on matters of religion or politics.\* Does it consist with the best interests of society that such things should be bolstered up by our legislature—by entail and primogeniture? Again, Dr

\* One man owns a Scottish shire; another can ride ninety miles on his own property. These men have a great deal too much power over the people.

Chalmers thinks that the manners of people are much improved by the residence of gentry among them ; but how much of this element can we boast of ? Many beautiful seats that formerly sheltered one family are shut up, and perhaps never entered for years, which, but for the cause we are now deprecating, would be owned by a younger son ; the “big house,” too, that in the old times used to be the residence of the family, is now converted into a shooting-box—if it can be used for six weeks in harvest, nothing more is wanted. Besides, great as the incomes are of such favoured ones, how often are they sufficient ? It seems that the richer you make some people, the poorer they become. If Ireland has good ground of complaint against absenteeism, Scotland has ten times more ; there the lairds say they are in personal danger and have to leave,—can any one say that in regard to Scotland ? The Scottish nobleman spends his sovereigns in England—in London. At the shooting season he comes home to Scotland and spends the shillings. We complain not of all this, but many would make us believe that if the lairds would not hold up the island it must sink under the sea.

Dr Chalmers entertained an idea that the improvement of the working classes was dependent upon the highness of their living ; that, in fact, if an improvement in this respect could be accomplished they would be all right, and to carry out this theory he considered the influence and example of the gentry as an attracting influence upward ; and farther, to attract the gentry upwards, the law of primogeniture was good, and indispensable to the greatness of a nation. We believe there is much truth in the Doctor's theories, that they exhibit in clear light a sure truth ; but most certainly we take exception to its being carried beyond its legitimate and fair limits. “For the best construction of a social edifice, in every large country like ours, we would have a king upon the throne, not rising like a giant among the pigmies, or as an unsupported May-pole in the midst of a level population, but borne up by a splendid aristocracy, and a gradation of

ranks shelving downwards to the basement of society." This we certainly subscribe to,—it is the natural way, but the interference of primogeniture mars the whole. The nobles are raised too near the level of the throne,\* the platform is reared too high, so much so, that the throne is hampered; and we could refer to many histories in support of our statement. Again, the platform of the aristocracy is high above all the lower ranks. There is an immense gap between, a great blank, a connecting link broken or displaced, the next step is lowered down that the other one may be made higher, thus causing a double evil, a greater height and a greater depth.

But does it consist with the good of society that this artificial and hollow rank should be kept up? One man is mounted up to a high pinnacle, he is enabled to keep great dignity, he is honoured with titles and supported by a handsome income; but has this excessive display no effect upon others? Does it not act as an allurements to others, and tempt them to imitate him? This false idea is engendered first in the aristocracy, and seeks its way down through the lower grades of society. The feudal system favoured the pretensions of the nobles to assume great display, and doubtless this false idea is finding its way through every grade of society, and induces and applauds the absurd idea, that in order to be right, great style and dignity must be kept up. Many thus lose the substantial reality in chasing after a shadow. Happiness is not cared for, provided a certain amount of gaudy show be obtained. Go into any of the inland parts of England, and contrast the hospitality and comfort enjoyed by the "squires" there, with the hungry and empty stomach of a Highland laird as he is now seen; but the case was different fifty years ago. The jolly Englishman is always ready to help, he has enough and to spare, he can live comfortably himself, and keep all about him in comparative comfort. In Scotland among this class there is precious little "water goes

\* Imagine a Scottish nobleman in former days having 1000 cavalry as his personal guard.

past the mill." In the north, especially, more dignity is now assumed on a basis of £500 per annum than in the south on a basis of £3000. An idea likewise prevails that income derivable from land is better and much more to be valued than a like sum from merchandise. How different we are now, and that to the worse, from the Romans! We are advancing, but it is backward instead of forward. Provided we get the outward glitter of tin, it matters not whether there be any of the real metal. By all means let us get the *comb*; if there be honey in it, good and well—if not, it cannot be helped—at all events let us have the comb. If we get the *nut*, never ask whether there be a kernel in it; the bare shell is what is principally wanted.

Let us now ask, Has entail and primogeniture a good effect on the beneficiary himself? The heir soon knows that the fine estates and titles of his father are his by right, that they cannot be put past him, that they cannot be alienated or broken up, and feeling that a certain provision thus awaits him, he gives the reins to his passions, and on he goes without check or control. Does this not of itself assist in affording gratification for the grossest passions? He is put without the reach of parental care, he needs not mind whether his father is pleased with his conduct or not. He feels quite independent of him, he can afford to laugh at his displeasure. "The inconvenience was great, for by that means, the land being so sure tied upon the heir, as that his father could not put it from him, it made the same to be disobedient, negligent, and wasteful, often marrying without the consent of the father, and to grow insolent in vice, knowing that there could be no check of disinheriting him."\* It is no doubt a bad thing for a man to be under the necessity of toiling like a slave to maintain his rank and position in life; but it is equally bad for a man to be thrown high and dry above the cares of the world. He is quite independent himself, and he is taught to care little for others. Let any of us ask ourselves, if we would have been better in a moral or religious point of view

\* Bacon.

by being thus situated? Would it not have had the effect of making us proud, arrogant, and high-minded? We cannot but imagine that the effect upon a married man must be very pernicious. Instead of doing something to provide for the younger branches of his family, he hangs on in half-starved idleness, and the moral check which ought to operate in every right-minded man is removed, because he sees that no misconduct on his part can alienate the family inheritance. But some will inform us, that unless this check was imposed by the legislature, the estate would be transferred to other hands—a great loss indeed to the country! Some people attach more value to an old name, and disgraceful enough it may have been, than to patriotic services of great extent performed by a man of a new family. “It is a terrible thing that influence of nobility—it gives a man an ascendancy which could not be acquired by half a century of glory.” \*

Few will assert that the institutions of entail and primogeniture exert a good moral influence on those concerned. Perhaps fewer still will deny that their influence is decidedly immoral. Now, if such be the case, let us note that this vicious tendency affects the higher orders of society, those placed on pinnacles, lights set on a hill; and it is very well known that all the lower grades copy from the higher. Now it is our belief, that it is owing to the laws of entail and primogeniture that dissoluteness is patronised and fostered in the higher orders, and the infection spreads abroad from it, carrying disaster in its train. It is like a stone thrown into the middle of a peaceful lake, causing waves to swell even to the uttermost edges. If people from their high position are examples, there is no good reason why they should not be exemplary instead of the reverse.

The unquestionable tendency of these institutions is therefore to pamper and spoil the oldest child. “That a person,” says John Stuart Mill, “should be certain from childhood of succeeding to a large fortune independently of the goodwill

\* Pascal alluding to the French noblesse.

and affection of any human being, is, unless under very favourable circumstances of other kinds, *almost a fatal circumstance in his education.*" "Men leave their riches either to their kindred or to the public, and moderate portions prosper best in both. A great estate left to an heir is as a lure to all the birds of prey round about to seize on him, if he be not the better established in years and judgment."\*

*How do such institutions affect the younger branches of the family?* It is a clear law of nature that we should honour our parents, but entail and primogeniture run counter to this law, by enabling the eldest son to assume an independent position, and he need not care whether his parents are pleased with him or not. But they do more; they prevent the parents from fully rewarding the virtuous members of their family in the way they could wish, as the estate must go to aggrandise the eldest son, who may be the most undeserving of the whole! "Nothing," says Adam Smith, "can be more contrary to the real interest of a numerous family, than a right which, in order to enrich one, beggars all the rest of the children."

Before the father dies, the heir of entail is "like a fish out of the water," he is above doing any thing for himself. The moderate income allowed to him in his minority is by far too little for his wants, and before the father dies, he is almost always involved in debt, aye, and that to a very considerable amount. By the time he obtains possession of the inheritance he is pretty well advanced in years, and he finds the income is burdened with some provision to a dowager, and perhaps some to his own brothers and sisters. Instead of laying up a store for his family, he finds that he can barely keep them in the rank and style necessary for a great family, so that when he dies, little or nothing is left to help them forward. They are therefore thrown destitute on the world, if sufficient influence has not been exerted to get them quartered upon the nation, either in the church,† the army, or

\* Bacon.

† "A provision for the younger sons has been viewed as the great, if not

the navy. They are by far too proud to do any thing for themselves, and it is melancholy to see them with their great necessities and nothing to supply them. As long as their father lived, they enjoyed all the privileges of nobility—the worse for them afterwards! They are without a home, and their paltry pittance is quite insufficient to keep them up according to their ideas of comfort. Mill considers it no hardship for any man to depend upon his own exertions for the means of supporting a family; but the sons of the aristocracy have been taught to look down upon business as a disgrace, just as other people would contemplate a parish allowance! If there be not cruelty in statutes that protect and foster such inequalities, we are much mistaken.

PRODUCTION.—We have attempted to show the vicious influence of entail or primogeniture on the manners of all classes,—how they are against the liberty of the subject, their tendency to develop a false display of greatness, their injurious effects on morality, their making the heir a “spoiled child,” their cruelty to the younger members of the family. Let us now inquire, Do they develop or hinder our national resources? Do they act as an incubus upon, or an incentive to, industry; or do they lock up the land and prevent its being serviceable to us as a nation?

Large properties are by these statutes made larger, but instead of more food being raised for the good of mankind, there is much less. In large overgrown properties, look at what is wasted. There is as much land taken up with pleasure-grounds as would feed a country-side. Look at the immense tracts laid waste for the cruel game of slaying animals, and this is what smaller proprietors could not afford to do in proportion. “It seldom happens,” says Adam Smith, “that a great proprietor is a great improver.” This we apprehend is the case for two reasons, viz., that he is often unable, and also that he is often unwilling.

the only good of a church, by many who hold the dispensation of its offices.”  
—*Dr Chalmers.*



We have already stated, that before the heir gains possession of the inheritance he is considerably advanced in age, he has lost the stimulus of youth to active exertion, he is beginning to go down into the vale of years, and now chooses repose rather than busying himself in schemes requiring active exertion of mind and body. He has waited so long for the object of his desires, he would, now that he has got it, prefer reposing in peace and quietness. What he has looked forward to, from his earliest infancy, is now become his own. The prize that has been all his life long dazzling in his eyes is at length reached, and often its fairest promises of happiness prove deceitful. Instead of laying out money in improvements, he has enough to do to keep clear of debt, besides that the former load still hangs heavy on him. Instead of caring much for his own affairs or those of his country, "he lays his old age upon the lap of ease," and is much tempted to consider his possessions as all in all, nay, as his eternal dwelling-place. "Soul, thou hast much goods laid up for many years; take thine ease, eat, drink, and be merry."

In many cases the heir is of another family. Perhaps the incumbent's family are all daughters, and the estate being in male fee it passes out of his family altogether. In this and many other cases the owner is not only careless about improvements but often hostile to them. He burdens them as much as he possibly can with debts, sells off the wood, leaves the houses and steading to go to utter ruin, and will do nothing to assist such tenants as are wishful to improve. No plantations are made, because an unfriendly family will reap all the advantage. How many examples have we seen of the truth of this; yet some will actually tell us that these law-rules are for the nation's good! It is often the case that the incumbent has no money to improve with.\* It is also often the case that he is quite hostile to all improvements whatever.

\* "Unless a strong case of social utility can be made out for primogeniture, it stands sufficiently condemned by the general principles of justice, by a broad distinction in the treatment of one person and another, grounded

**DISTRIBUTION.**—That the enactments now under review induce an improper distribution of landed property, none will deny. That such a distribution is hostile to our prosperity as a nation, is, we posit, equally clear. But some will immediately tell us, that dowagers and younger sons and daughters can be, and are frequently, portioned out of the income of the estate. True, but the philosophy of the system is to keep the revenues as free as possible to aggrandise the eldest son, and sums are frequently left for no other purpose but to buy land, which must be entailed as soon as purchased. Now, would it not be much better to portion off a part of the estate rather than a part of the income of it? All large estates are composed of a number of smaller ones, either bought up or obtained by an inheritance; now, along with these there is a “seat,” or family mansion-house. Most of these are at present allowed to go to wreck, and it would be good for the country that they contained a resident family, both to improve the manners of the people, and to increase trade in the neighbourhood. These could be easily divided off to the younger branches, and in many cases it would be better for the heir, because he is burdened with heavy sums, while ostensibly he is proprietor of the whole.\*

Under such a system the *liberty* of the inhabitants would be much more flourishing. Those who are acquainted with the feelings and sentiments that must necessarily prevail before a residence in the country can be obtained, even at a more than proper price, can testify to this. Unless you are the laird’s “most humble servant,” not only as regards busi-

solely on an accident. There is no need, therefore, to make out any case of economical evil against primogeniture. . . . It is a natural effect of primogeniture to make the landlords a needy class.”—*J. S. Mill*.

\* There are many instances that suggest themselves in proof of the above statement. From this cause the representatives of some old and wealthy families have only such an income as enables them to live as respectable lodgers. An Earl, with a fine estate and castle, had £300 from his estates in 1846, after the trustees paid the claims of others. The income is little above that sum on an average.

ness matters, but even as to your religious opinions, you may have to suffer banishment. Who does not condemn the conduct of many proprietors for their persecution of the adherents of a certain church, who would not be allowed to worship their Creator, and upon his own land too? Who will deny that such an overstretch of power was a violent assault upon our common liberties, and an assumption of arbitrary rule without any reason? The most enlightened system of individual property can never militate against the subject's liberty. For these and many other reasons that we could produce, we think it would be far better if the *estate* were divided, instead of the income of it. Each cadet might and would, most likely, be a considerable improver upon the share allotted to him.

*How do entails affect the relationship of debtor and creditor?*

—It is well known how the public suffers from the estate being only liable for the lifetime of the incumbent. But the first answer you will obtain to any question on this part of our subject will be—"That people ought to know that the estate is entailed, and ought to trust the incumbent accordingly." Let us first look at this question as relative to natural law. We have already stated that laws are not "*traps*." We have seen upon a gentleman's fence round his enclosures, "Beware of man-traps and spring-guns." Notwithstanding this advertisement, were any loss of life likely to ensue, the said proprietor would be liable. Laws being designed for the public welfare, no one can be passed avowedly to damage the public good. If these spendthrifts are determined to make fools of themselves, and squander their properties, just let them do so. Don't allow them to squander the value of them first, and then let the public suffer.

Supposing that a swindler obtains goods under false pretences, does the law say to the merchant, You ought to have known better, that that fellow could not be the Earl of Dumbiedykes? No, but the law looks to the culprit, and makes *him* responsible for his conduct, and he is punished accordingly.

In such an instance the law exhibits a kindly feeling towards the public good faith, and treats swindlers as they deserve. If entails were all made to pass from the heir so soon as he contracted any debt, less might be said against them. If, in other words, it were unlawful for him to come under any obligation, and that whatever purchases he made should be in ready money, less could be said against entail enactments.

That the passing of these statutes was an invasion upon common law and justice, has been the opinion of all who are competent to judge. The ablest lawyers have denounced them, and the hostility which they have encountered from the English judges is a matter of history. Suppose that a farmer is possessed of some little saving, and the laird becomes acquainted with the fact, the victim is set upon, factors and lawyers never lie off him till he has given up the spoil. In case of a refusal, means are adopted to persecute him for his faithfulness to the interests of his family. Or suppose a merchant (whose trade depends upon the goodwill of the laird and his connections); goods are sent for; he knows, from the extravagance and gambling going on, that he will never be paid, but he has only to make up his mind to sacrifice his goods or his business. Does it consist with the public welfare that enactments, the engines of such tyranny, should exist? Further, many labourers are employed on the estate, and there being no work to be had but from the laird, they must either work to him, or leave their place of abode. Now, as soon as the laird becomes bankrupt, these people lose their wages, often their all! We could tell many tales of terrible disaster perpetrated upon whole districts from the above causes, but we forbear. We only wonder that such enormities should take place under the sanction of "law" in any civilised country.

**TAXATION.**—A large taxation is just a right corollary to the law of primogeniture, says Dr Chalmers.

If our government be principally in the hands of the aristocracy, little else can be expected than that they should

endeavour to get their friends into the best and fattest places. Further, offices are kept solely to reward the sons of the aristocracy for the adherence of their parents either to the Whig or the Tory party, and undoubtedly family influence goes much further to secure patronage than merit. In the army it is *possible* for merit to rise without help—but it is little more than possible. Whether merit, or family influence, supported by overbearing haughtiness, bigotry, and pride, should be the criterion, is to me plain enough. It is well known how much Wellington suffered from these causes. Had Napoleon restricted his officers to be chosen from the ranks of the noblesse alone, could he ever have succeeded as he did? History holds that great man up to admiration for the manner in which he discovered and rewarded merit. Pitch hereditary rank and personal merit against one another, and which would be victorious? But bad as the army may be, as the mere tool of the aristocracy, it is good when compared with the navy. If we are not very much mistaken, *no merit* can enable a sailor to rise to a higher rank. Family influence is indispensable. Supposing that a young man were ambitious of serving his country at sea, how could he be admitted into the navy unless he were backed by influence—a thing, be it remarked, his high spirit could ill brook to court. As to the Church of England nothing need be said, its relation to the aristocracy being too well known.

Taxation has in our day risen to be a great national evil, and much ought to be done to remedy it. This is admitted by every one, and the improvements in legislation verge towards this point. The topics of popular invective often cross each other. The loudest against the burden of taxation are also loudest against the law of primogeniture. This is a strong admission from one who upheld the latter law so strongly.

In Alison's Essay on the British Peerage, he says, "That the younger branches of our nobility are to be found discharging the duty of country curates, or enduring the hardship of naval, or facing the danger of military life, without

any distinction from their humbler brethren. Destroy this invaluable distinction, banish the sons of the opulent from active employment, and where will they be found?" Pray, who wishes all this? None that we know of. They may still be as active as country curates, or as military and naval men, without having a monopoly of these offices; but the very fact of their having to sustain competition in an open market would operate as a wonderful spur to their activity. Merit alone should be the test,—all the better if it be found in one whose hereditary prestige would act as a counterbalance against merit. The country would enjoy the benefit of the struggle. But a great part of the extra expenses in our army and navy ought to be borne by married gentlemen in large towns, seeing that for their behoof the expensive style of these branches is kept up.\*

Let us conclude this chapter with two extracts, both from great and patriotic Scotchmen. 1st, From Adam Smith:—"Like what are called the fundamental laws of some monarchies, they might frequently hinder the security of thousands from being endangered by the caprice or extravagance of one man. But in the present state of Europe, when small as well as large estates derive their security from the laws of their country, nothing can be more completely absurd. They are founded upon the most absurd of all suppositions—the supposition that every successive generation of men have an equal right to the earth, and to all that it possesses; but that the property of the present generation should be restrained and regulated according to the fancy of those who died, perhaps five hundred years before. Entails, however, are still respected through the greater part of Europe, in those countries particularly in which noble birth is a necessary qualification for the enjoyment of either civil or military honours. Entails are thought necessary for maintaining this exclusive

\* "And where will they be found? At the gaming-table or the race-course, *corrupting the wives of the citizens*, or squandering the fortunes of ages."—*Alison*.

privilege of the nobility to the great offices and honours of their country; and that order having usurped one unjust advantage over the rest of their fellow-citizens, lest their poverty should render it ridiculous, it is thought reasonable that they should have another."

Let us hear what Lord Kaimes, one of the greatest of Scottish judges and lawyers, says:—"Men are fond of power, especially over what they call their own; and all men conspired to make the powers of property as extensive as possible. Many centuries have passed since property was carried to its utmost length. No moderate man can desire more than to have the free disposal of his goods during his life, and to name the person who shall enjoy them after his death. Old Rome, as well as Greece, acknowledged these powers to be inherent in property; and these powers are sufficient for all the purposes for which goods of fortune can be subservient. They fully answer the purposes of commerce, and they fully answer the purposes of benevolence. But the passions of man are not confined within the bounds of reason. We thirst after opulence, and are not satisfied with the full enjoyment of the goods of fortune, unless it be also in our power to give them a perpetual existence, and to preserve them for ever to ourselves and our families. This purpose we are conscious can never be fully accomplished, but we approach to it the nearest we can by imagination. The man who has amassed great wealth cannot think of quitting his hold; and yet, alas! we must die and leave the enjoyment to others. To colour such a dismal prospect he makes a deed, arresting fleeting property, securing his estate to himself, and those who represent him in an endless succession. His estate and heirs must for ever bear his name—every thing to perpetuate his memory and his wealth. How unfit for the frail condition of mortals are such swollen conceptions! The feudal system unluckily suggested a hint for gratifying this national appetite. Entails in England, authorised by statute, spread every where with great rapidity, till, becoming a public nui-

sance, they were checked and defeated by authority of judges without a statute. It was a wonderful blindness in our legislature to encourage entails by statute at a time when the public interest required a statute against those who had already imposed upon us. A great proportion of our land is already, by authority of the statute 1685, exempted from commerce. To this dead stock portions of land are daily added by new entails, and if the British legislature interpose not, the time in which the whole will be locked up is not far distant. How pernicious this event must prove, needs not to be explained. Land-property, *naturally* one of the *great blessings* of life, is thus converted into a *curse*. That entails are subversive of industry and commerce, is not the worst that can be said against them. They appear in a still more disagreeable light when viewed with relation to those more immediately affected. A snare they are to the thoughtless proprietor, who, even by a single act, may be entangled past hope of relief. To the cautious they are a perpetual source of discontent, by subverting that liberty and independence to which all men aspire, with respect to their possessions, as well as to their persons."



## CHAPTER IV.

### GAME LAW-RULES.

#### SECTION I.—DEFINITION OF GAME—ORIGIN OF LAWS AFFECTING GAME.

GAME—a riddle. “What makes one fowl of the same species to be ‘game,’ and another not?” Do you give it up? We regret to say that we cannot assist you to read the riddle—some abler hand must try his skill on it.

Game, games, gaming, gambling, play, sporting, amusements, are all general terms, signifying nearly the same thing. No doubt, an Act of Parliament can declare, as it often does, any word to have a different meaning from that which is commonly received; but lexicographers pay little attention to such interferences with the recognised meanings of words, and perhaps they are right in doing so.

It would take an immense amount of time and labour to write a natural history of games—to trace them from their originals—to apply the “Development Theory” to their earliest appearance in the history of living beings, both individually and socially—how the baby in the cradle begins with the rattle, how long it continues at this stage when it commences the whistle, and when this is renounced for the horse. The *ball* is soon introduced; and the great improvement effected in this branch of science since our young days is worthy of note,—Gutta-percha and India-rubber, so useful in other things, being most successfully applied to making balls. The hoop comes next in order, along with wooden bricks for building castles, which, in their turn, are succeeded by *rabbits* and *birds*. From the excitement in catching these

live creatures, and the daily interest afforded by feeding, cleaning, &c., this amusement is peculiarly adapted to the minds and inclinations of some boys. It is observable at this stage, however, that these minds are not of the highest order, but the practice of bird-nesting and hawking are generally characteristic of wild, roving, aye, and sometimes cruel boys. Further, it is melancholy to think how long they remain at this stage, and some perhaps never get beyond it, for all their talk in after life shows that their inclinations, tastes, and wishes lie in this direction. They can only talk of catching trout, of ginning hares, and about dogs of different breeds—conversation which is unseemly in old people, “and only continued by those who have not found out some more rational employment.”

Bird-nesting, &c., has been said by some to be most beneficial for the health of boys, as it attracts them to the fresh air and active exercise. Rabbit-breeding, however, although very interesting, is very precarious, as *cats* often carry away the young, and sometimes old, from the small houses in which they are usually kept. Pity there is not some “protection” against such despoilers of “boys’” game! Cats are, indeed, bad poachers, and the only cure for such great evils known in our young days, was a rope with a stone attached to the neck of the cat, which was forthwith sent to the nearest pool.\*

In the savage state, hunting is one great “game.” It is both a business and pleasure; but all historians have noticed and duly recorded the fact, that as nations advanced in civilization hunting died away. And the further the encroachments made by industry, the more the limits of the chase are circumscribed. In the backwoods, for instance, many roving blades lead a merry life; they are called trappers, but their march is always westward, to keep out of the way of squatters and settlers. What a pity some mighty American patriot, who could sway the members of Congress by force of his

\* Talking of cats, it is a great exploit for a sportsman to take one down, a shot cat being equal to a good number of hares, or any other game.

genius and intellect, would not rise and stay this insolent violation of the dominion of game! What fools the Americans are to encourage agriculture and commerce—to bring the wild forest under the dominion of man (even although it should greatly contribute to his comforts), to extirpate “game!” It is surprising to see a nation, mere tyros of yesterday, destroying what older governments are doing so much to preserve!

Beast-fighting was probably the most common sport of ancient times. Theatres were built for the accommodation of spectators; and numerous instances are recorded of individuals bestowing large sums of money out of their *private* purses, that the *public* might be gratified. Brutal sports bring their barbarous pleasures along with them. The distribution of them was somewhat different from our way of it. *All classes*\* appear to have had a share of what was going. Hawking or falconry was, in the middle ages, patronised to a great extent. It required a vast amount of skill to be a proficient in this amusement, and the excitement caused by it was much more rational than that of shooting grouse. Falconry was the great stock-in-trade of poets, novelists, and historians, in ancient times; from it they borrowed their best illustrations; and undoubtedly many terms and practices subsist at this present time, the origin of which could be traced to this ancient pastime. Hunting and hawking were patronised by old Scottish Acts of Parliament, as “only means and instruments to keep the hail lieges’ bodies fra not becoming altogether effeminate.”

In some countries where the feudal system was carried to a great excess, kings enacted the most rigorous law-rules for protecting their forests; and historians concur in asserting

\* The Romans, even during their enslavement, worked mainly for the people. All their great edifices were evidently intended for the enjoyment of all. In the times of the Republic, the chief object was the public utility, to which the aqueducts and magnificent roads of that period were destined to contribute. In the days of the Empire, it was rather the public *pleasure* that was consulted—the result was circuses and theatres.—*Simonds*.

that the life of a "protected" animal was held far more precious than that of a human being. These enactments were introduced into England by the Normans, and in Scotland royal forests were "protected" most rigorously by statute. But gradually the country and legislators became more civilised, other amusements and exercises of a more intellectual kind were substituted, and it has been left to the *wise legislators* of the last sixty years to exalt the game of sporting among animals to a more elevated position than it ever occupied in ancient and most barbarous times; that is, if we can judge by the numerous Acts of Parliament made for its protection—if we can judge by the thousands of people that are banished, in order that our legislators and their friends may have sport. Literature came to usurp the place occupied by falconry and hunting. It does so still. Perhaps the best of all amusements and relaxations is to be found in the study of the sciences. Were we asked in what department of knowledge instruction, amusement, and healthful exercise, are best combined, we would likely name botany as the most agreeable and profitable. But, alas! we have reckoned without our host. This intellectual luxury must be sacrificed at the shrine of caber-feigh and muircock, for their dominion must not be insulted by the presence of mere professors and students, however anxious they may be to promote the growth of science.

Let us now look at the relation betwixt *Government* and games or sports.

Unless there be some urgent call from great national loss, or from such cause as that quoted about "lieges' bodies," it is not prudent for Government to interfere with the amusements of the subject, either to protect them from falling into desuetude, or to foster them by special laws for their direct encouragement. Many games are practised at the present day that are injurious to the comfort and morality of the people; these, we apprehend, fall under the jurisdiction of religion and philanthropy, whose beneficent influence will

have a better effect than any Act of Parliament. If it be our duty to discourage such amusements as have a vicious tendency, we are called upon to encourage what is good. Teetotallers remove entirely one stimulant; could their ends not be more effectually accomplished by substituting a better employment in its place? There are none who will blame us for wasting our health and strength in the pursuit of lucre. Mammon has bewitched almost all to be his worshippers, but many would frown upon us for assisting or forwarding such moderate and exhilarating exercises as would contribute to the stock of bodily *health*, instead of that of gold. Some years ago, gambling was prevalent to such an extent as to call for an immediate interference of Government, and few have reason to regret the introduction of those prompt measures that were adopted for its effectual overthrow. It was, however, a considerable loss to the carrion that fed on the public corruption. Boxing and fencing *as amusements* are not prohibited, but when either of these are overstretched to the detriment of life and limb, it is just and proper that they should be discouraged; nay, not only so, but the offenders should be punished as breakers of the peace.

In order that our views may be better understood, and less liable to be twisted, let us lay down some propositions.

1st, *Harmless sports being for public amusement, Government is not called upon to interdict them.*

2d, *Some sports being detrimental to the public weal, and Government being instituted for protecting the public welfare, it is not the duty of Government to foster, encourage, or protect, by special enactments, such detrimental sports.*

Let it not be imagined that we now wish to entrap the reader into a condemnation of all our game statutes, either expressly or by implication. Enough for us at present to establish these great truths. That they are statements of truth, every one will admit. Whether or not they are adopted by our Government more than in theory, it will be for us to

inquire by and by. But without transgressing, we may go a little farther still, and posit,

3d, *That it is the duty of Government to repress whatever sports may be found to militate against the public good.*

As these several propositions fall to be discussed in detail, it is unnecessary here to say any thing in their favour. Especially it will be our duty to inquire whether or not our game statutes are deserving of the name of statutes in reference to sports or "game," and whether they operate actively to the public damage, and that in the first and most important part of law, viz., PERSONS.

As we observed in a former chapter, man obtained the grant of animals for his use, as well as the earth for his sustenance. And we doubt not that all the creatures were originally in his service—that he exercised a power over them similar to that of Noah, when they were taken into the ark. All inquirers into natural history have given their assent to the statement, *that the cruelty of man alienates the animals from him.* Not only so, but where his cruelty is most apparent, the evil genius of the brute creation is most developed. This holds to reason; for if you act unkindly to your dog, or to any tame animal, does such conduct not naturally tend to irritate any latent vicious disposition in them? Those accustomed to ride or work horses, know the operation of the law of kindness in their contact with such animals. What is the wonderful docility of the Arabian barb to be attributed to but to this? In Britain the horse is a most useful slave; we see him cruelly beaten and overwrought when he is in our power, and yet how few horses are chargeable with what is called "vice!" We see children riding and using the greatest liberties with them without any risk. But let us use, or rather abuse, them as we do red deer, and see what disposition they would manifest. The ponies running wild in Shetland are tame and quiet, but hunt them with dogs and men, and inquire whether this would tame, or whether it would not rather exasperate, their natural dispositions. Again, the

dog is now numbered among the domestic animals, but instead of caressing him, let us range ourselves in hostility against him—let us keep the dog as we do deer, continually wild, and say, would the ferocity of his nature be then serviceable to man? He might be the subject of “sport” for accomplishing his destruction, but he would be a dangerous lap-companion to old maids. Some animals are naturally wild, so are all plants; but the gardener who wishes to render these latter subservient to man’s good, does not make them wilder than before. On the other hand, his careful study of the nature of plants enables him to bring them under cultivation, and the employment is found to be both profitable and agreeable. Could it be demonstrated that the wildest animal that now roams over the primeval forests of Africa were useful to man, we have no doubt whatever that the ingenuity man displays in ministering to his other wants, would find ways and means to render that animal as tame and obedient as is desirable.

We have made use of an everyday word, “domestic animals;” properly speaking, we know of none save the mouse, rat, and cricket. Perhaps these are the only living creatures who voluntarily attach themselves to the dwellings of man. The others who go mates with him would be better defined by a slight alteration, “domesticated animals,” implying that they had at one time or other been appropriated by man, and taken by him from their original wildness in the forest. We do not mean to assert that all animals could be rendered as tame and quiet as a goose, but we posit that, if found *desirable*, the list of our domesticated animals could be multiplied to a great extent. Apply the kindness and industrial capacity of man to the brute creation, instead of exercising tyranny and cruelty towards them, and you would see them, in some cases, amply repaying kindness by devotion to his service; and the labour bestowed on others would be well rewarded by improvement in the quality of the breeds, as well as greater productiveness. If you are at all dubious on

these points, turn up Cowper's writings, contrast his treatment of hares with that which they receive from the sportsman, and see the difference in the results,—the former caressed, fondled, and sought the company of man; the latter fly from him, knowing well he is their most deadly enemy.

When you enter an unreclaimed country, you find no gardens, no esculents improved and cultivated, either for your immediate use, or for storing against your necessities during winter. There are, however, numerous plants growing wild, which yield at present a scanty return; transplant them to a sheltered spot, facing the sun; dig and enclose it; apply a little manure, and you may expect a greater supply, and superior quality. This is gardening; extend your limits, and, instead of the spade use a plough, if you think it best, and then you have farming. We apprehend all horses and cattle have been brought to their present state by the same process as we have described to be the beginning of garden cultivation. A lady, belonging to the Highlands, returned, after a long absence, to take possession of an estate which had been bequeathed to her. "Donald," quoth her ladyship, "go to the hill and bring me a sheep." The trusty servant was embarrassed; at last he managed to stammer out in reply, "Your ladyship has no sheep on the hill—they belong to the tenant." "What! cannot I take a sheep from my own hill?" With great wrath she threatened to make a clean sweep of all that would so audaciously defraud her of such indisputable rights.

When the emigrant goes to a foreign land, he does not introduce every wild herb into his garden; he does not domesticate every animal he catches wild; he makes a *judicious selection*; he nourishes and attends to the sheep, which he finds to be a better neighbour than the fox or wolf. Hence he propagates the one in preference to the other; and he does not leave the wilderness in its original wildness, solely that he may enjoy the pleasure of destroying the wild animals. Under his shelter, cultivation goes forward, invades the do-



main of the unproductive animals, who have to retreat before their old slaves, the lamb and chickens. What folly would it be in an emigrant to stop improvements; and not only so, but to *lay waste* even reclaimed land which some predecessor had cultivated! There never was, among all the people that ever emigrated, one so foolish as this.

In feudal times in Scotland, as well as in most other old countries, certain small spots, forming no large tract of country, even though all joined in one, were reserved for hunting-grounds to our "savage monarchs," as Blackstone chooses to call them. These were named "royal forests;" and the king, for whose pleasure they were reserved, enacted stringent regulations for preserving the wild animals for him to shoot or catch. All their "game" was enclosed in these forests. An old statute of King Robert runs thus:—"Gif anie man sees anie evil-doers or malefactors within the forest takeand any wilde beast, and careing him awaie, he sould take the [man] gif he may; and gif he may not, he sould raise huy and crie to the narest townes beside the forest, and to pass and manifest it to the king's forrester; and gif he does not, he sall remaine in the king's heavie mercie."

In a wild state, nature yields but a scanty and precarious subsistence to man. Savages live in numbers on the spoil received in hunting; they are, however, often exposed to the torture of long fasting, and doubtless many have died from famine, when, from some peculiar cause, the "game" have been destroyed, or become scarce. It has been remarked by a philosophic historian, that population cannot increase on such slender supplies of food. Had the present rigorous enactments (whose prerogative it is to keep nature in her primeval state, and to exercise a healthful check on the advancement of cultivation) been in force in former times, unquestionably there would not have been nearly so many improvements. Many "toons" never would have been built, and many an acre would have been allowed to lie waste that now yields food for the use of mankind. Our forefathers were

much wiser in many things than we are; at least, if not wiser, they made a better use of what wisdom they did possess. As has already been hinted, science and literature made the barbarous pleasures of the chase flee before them; and but for parliamentary interference for the resuscitation and protection of such disgraceful pastimes, they would have been by this time, if not long before, consigned to oblivion. By and by, however, as society increased, and luxuries multiplied, a demand for a finer description of food sprung up. People becoming effeminate from want of exercise in the open air, desired lighter flesh than the byre supplied. Mutton could not be digested by their feeble stomachs; they could afford to pay for *red-flesh*, and why not have it? They would like to have something better than their neighbours, who got their supplies from the poultry-yard; and who could find fault? By introducing new kinds of poultry, needing more attention, they spent money in the country, thus affording work to numbers of hands. Until the beginning of the present century, such was the state of this "trade" in Scotland; those who could afford it, made enclosures for their birds and beasts, they cultivated the different breeds, and the industry of man propagated this more luxurious kind of sustenance for the consumption of those who were able and willing to pay for it. Thus we know of one nobleman who fancied rabbits for the supply of his table. He enclosed a waste bank of sand as a warren, where they increased, until spreading over the whole country, they have become a pest to all farmers within thirty miles of their adopted habitation. The original breed came from some part in England, and it is about ninety years since the importation took place. For the purpose of regulating such enclosures, various Acts of Parliament were passed, particularly that of 1535. Special punishments were ordained for such crimes as STEALING\* (which it certainly

\* "Na man hunt, schute, or slaie deer nor roes on others closes or parks under paine of dittay, and to be punished as theft."—*Act 1474*. Taking property out of such enclosures, constitutes a *moral crime*, that is, theft;

was) from the *enclosures*, deer-parks, or warrens. On the other hand, *judicious restrictions* were imposed to prevent the augmentation of preserved warrens and dovecotes from becoming a public nuisance. As this is so very much the reverse of matters at the present day, let us note some of them, at the same time observing the different tone of legislators formerly, who paid a considerate attention in these matters to the *general* welfare, from the tone of those of our day, who care not what the public may suffer, provided they get their improper and illegitimate ends accomplished.

A pigeon-house could be built by no landholder unless he possessed an annual revenue of ten chalders of victual from land lying within two miles of it. This was provided for by Act 1617, and it was enacted to check the increase of pigeons, who are "at last found so destructive to corns." Have we any counterpart to this in modern legislation? Again, "no proprietor could make new warrens on his estate unless he enclosed them, on account of the great damage they may bring to the neighbouring corns."\* If it was a crime to steal from deer parks, warrens, or other enclosed places, it proves that *enclosures* had to be made, which of themselves would impose a healthful check on the over-increasing game, because of the necessary expense incurred in making walls or fences. If such persons in the present day as consider the preservation of game an object of so much importance had to make enclosures for their birds and beasts, it would have a most beneficial and wholesome effect. In order to keep the beasts from being stolen, and the farmer's corn from being destroyed, a *stone wall* would be an excellent *protection* both to landowner and tenant.

It may not be improper to ask, would the animals now designated as "game," that yield red flesh for those who require or who relish such superior nourishment, be entirely

but poaching or killing game, as at present, cannot be construed into that crime by any reasoning.

\* Craig, quoted by Erskine.

destroyed? We know of no special law protecting horses, cattle, sheep, goats, pigs, and poultry, and yet there is an abundant supply of these in the market. The consumpt being considerable, a *trade* is established in them, people rear them purposely to meet the demand, and we know that if venison and other game were required in greater abundance, they could without any great stretch of agricultural or commercial enterprise, be provided in sufficient supply *at any season of the year*. Rabbits are in some places a most profitable speculation, and if an increasing demand sprung up, we doubt not they could be profitably brought to market, at prices much below what they fetch at present. We doubt not that with a free trade in beasts and birds, a most productive and lucrative branch of trade could be opened up, affording employment of a most healthful description, and from the easy nature of the duties necessary to be performed, it could be managed by such people as are, from physical infirmities, incapable of undergoing much fatigue. Although we make no pretension to the gift of prophecy, yet we doubt not that the sly cunning which the Highlander is reputed to be possessed of, would enable him to bring grouse to market *any day in the year*, and that at lower prices than they now bring. Examine any reasonable person whether a deer or an ox is the most valuable animal for man, and what would he reply? Question the simplest "hafla," whether a bustard or a duck is the most serviceable, and would he hesitate for a moment to reply? Ask any thrifty old wife in the country whether her dorkin should be expelled to make room for partridges, and what would she advise? Ask any herd-boy whether a sheep or a roe is the most productive to the human family, and his simple and sober but not unphilosophical answer would be plain enough. How the more useless class should be "protected," while by far the most valuable and most productive should be kept down to make room for the former, is what we cannot understand. If "protection" is to be the order of the coming day, we shall insist that the

domesticated animals shall have it in preference to the wild and as yet untamed. Perhaps "protection" should be a progressive measure, gradually including under its wide-spread wings all animals that are tamed, to encourage, if possible, the breeding of such indispensables to the human race as bustards and herons.

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SECTION II.—STATUTES RELATIVE TO GAME.

Having taken a rapid sketch of animals in their relation to man, and what progress they would make if left to be propagated according to their merits, let us now examine some of those statutes whose sole object is to regulate the fostering of some to the prejudice of others, and ask how far such interference is beneficial or mischievous to the human family, whose interests of course must, or at least ought to be consulted first in all statutes.

"Game laws" are, generally speaking, of modern invention. There were special enactments made in all feudal countries very early for the protection of royal forests; and if we can believe Buchanan, they were introduced into Scotland B.C. 261. The Romans it appears had no "game laws." "Large parks were *enclosed* for the imperial pleasures, and plentifully stocked with every species of wild beasts, and Gratian neglected the duties and even the dignity of his rank, to consume whole days in the vain display of his dexterity and boldness in the chase."\* We are not aware of any special statute appropriating special privileges to a few; but judging from the royal hunting-ground being "enclosed in parks," it may be inferred that all the remainder was free, else why "*enclose* the ground?"†

\* Gibbon, vol. v., p. 4.

† "I come now to the enclosing of wild beasts, and the management of bees, both of which may be reckoned amongst the animals that are reared in the villa. It was an ancient custom to place parks for hares, goats, and other wild beasts of these kinds, near the villa, within view of the mansion

"Ethodius" (A. D. 163), says Buchanan, "greatly delighted in hunting, for which sport he made many laws, of which a great part remain to this day." In the *Regiam Majestatem* we can find no such word as "game;" and from numerous passages we can see that no such thing was then known, at least in the present acceptation of that term. Hunting was free to all, excepting within six miles of the royal palace or park, and within the royal forests. "It is not lesome to hunt within the king's forest." "Gif anie hunts within the king's forests, without license, he sall pay ten pounds." It appears a poacher was well off in those days, for in another place his fine was to be "aught kye, and sall tyne his hounds with the beast."\*

Until 1621, every one had equal right to hunt all over Scotland excepting in royal forests. This is so clear, that it needs no proof. Any reference to the different animals was not constituting a right to them, or gifting them away to others. "Haires sould not be slaine in the time of snaw." Any person could kill them; but as they were defenceless in a snow storm, a law was made to protect them in such circumstances.

In 1621, a law was passed prohibiting all persons from hunting "game" who had not a ploughgate of land in heritage. This alteration was effected in order to put down riots that frequently occurred from bands of people gathering in the country and causing disturbances. If there be any truth in the doctrine enunciated by recent economists in reference to the excellent effects resulting from having a direct interest in the land, however small—or in other words, to the magic of property—this enactment must have given a great im-

house, that so these beasts might afford an agreeable prospect, and also, when needed for the table, might be ready and at hand."—*Columella*, quoted in the *Husbandry of the Ancients*. The first Roman that contrived parks for wild boars, and other wild beasts, was Tullius Supinus, who established the way of feeding these beasts in the country near Tarquinia.—*Pliny, Nat. Hist.*, lib. viii., cap. 52.

\* *Reg. Majest.*

petus to parties to obtain thirteen Scotch acres of land. If this law were in force still, we would hear of many small lairds, who would doubtless keep "game" in the proper place that nature has assigned to it. This would certainly be an immense improvement on the present system; but let us not be held as approving of any invasion, however small, of what is right, because we see that evil beginnings pave the way for future more mischievous usurpations. It encourages a false philosophy by teaching that one man has a better right to grasp common privileges, because he possesses a few acres of land. It was once held that a proprietor of lands could allow a friend to shoot or hunt on his property, although he did not possess the ploughgate qualification. Here we see some trace of parties asserting a claim to a sort of property in "game," which was by and by stretched to a great extent, and perhaps led the way to further encroachments.

Some people talk of the "game-laws," as if they were of Celtic origin,—an examination of the different statutes will dispel such a false notion. In the Highlands, until very recently, game was not protected at all. Of all men, the ancient Highlanders were perhaps the most opposed to humbug. Donald's "Sgian Dhu" was a ready and effectual cure for such evils. He had a great regard for his chief, just as long as the chief had the same for him. Had any chief of the old time attempted such an overstretch of power as that of making game-laws, he would either have been sent about his business, or what would have been fully as bad, he would have been left minus followers,—a loss which, in these wild times, he could not long survive. Be it noticed that the obnoxious and disastrous rules about game were not enforced until long after the abolition of the chieftain's power,—we were going to say feudal system, but *when it will be abolished* is another question. Of all places, the worst Feudalism could remain in is among our laws, of which unfortunately it still forms a large part.

*Property in Game.\**—According to the Roman law, whoever

\* Pearls inclosed in shells, or pebbles cast upon the shore, belong to the

caught or found a wild beast, was the owner thereof. So was it in Scotland a few years ago. It is the case still, despite Acts of Parliament; for, this being a fundamental law, you can never alter it. No lawyer will seriously tell you the game belongs to the proprietor. How can a shot fired make twenty fowls mine this minute, and yours next? This being a natural right, we deny the power of Parliament to vote it away. It is at least very evident that legislators cannot give or take away a public right for themselves or their class, without a *very valuable consideration*. Some will tell us, that whatever is on the land belongs to the landowner,—you may as well say, that the *people* are his, because they live on his estate,—the air and wind must be his too, and the sea, for a portion of it may touch his property. If game falls as a natural right to the proprietor, it is wonderful that this doctrine was never discovered until a few years ago. “A beast caught in a gin, or a fish with a hook, being the purchase of art and industry, were from the beginning considered by all as belonging to the occupant.” If game belong to one man, how can he show

finder. Thus also we acquire the property of all wild beasts, fowls, or fishes, as soon as we kill or apprehend them, whether upon our own grounds, or even upon those of another, for they can belong to no person, wherever they may be, while they retain their natural liberty; and, consequently, must become the property of him who first seizes them. The right of hunting, fowling, and fishing, is indeed restrained in many cases under fixed penalties, by the *statutes* to be hereafter mentioned. But all game, though it should be caught in breach of these acts, or within another man's property, belongs by *necessity of law* to him who hath seized it. The prohibition, therefore, in those statutes can have no other effect than to inflict a fine on the trespasser, unless where the confiscation of what is caught makes part of the statutory penalty. Deer inclosed in a park, fish in a pond, or birds in a volery, as they cannot be said to retain any longer their natural liberty, become the property of him who has brought them under his power, and consequently whoever carries them off from that owner commits theft. But as soon as they get free from their confinement, he who should have first laid hold of them, after the former proprietor has given over their pursuit, acquires their property.—*Erskine's Institutes*, book ii. 10. The reader will easily discover the difference noted in this passage of what is, “by necessity of law,” common property, and what is alienated to certain individuals by the provisions of statutes.



his right thereto? Can he know his own partridges from another man's? If game belongs to him, how does it need a special law to constitute it so? My horse or cow is mine, yet I need no special enactment to declare them such, because I can prove them to be so by common law. A man makes a number of watches—is it necessary that he must have a general Act of Parliament declaring that he is owner of them? A farmer feeds twenty bullocks—who will deny they are his own? If a proprietor claims possession of all the wild fowl, let him prove his right thereto in common court,—let him identify them as his property,—and let him show that he has missed them from his common stock. If a farmer\* gets his poultry stolen, and a thief is caught having fowls in his possession, can the farmer say they are his, without showing some marks by which he can identify them as being his property? If a shepherd gets a number of sheep stolen, and a like number be found in the possession of a neighbouring thief, he may say, "I purchased these sheep;" but the shepherd can prove to the contrary—he can show that he has missed those sheep, and he can point to "ken-marks" showing his right to them, and he can also show the mark of the former proprietor. It is inconsistent with the interests of society that the common law should be invaded, and its principles overturned to please a few rentowners, and that not to benefit themselves, but

\* A gentleman of an eccentric disposition was informed that some travelling pedlars were guilty of stealing hens in the neighbourhood. A few days after he saw them passing by carrying some fowls. He immediately fancied they were his. He applied to the neighbouring policeman to have them apprehended, which was soon arranged. The culprits were brought up for examination, and to confront their prosecutor. "Are you sure these are your hens?" inquired his honour. "I think they are." "How do you know, because your 'thinks' cannot condemn a man who may be innocent?" "I can't tell." "Did you miss any hens from your poultry-yard?" said his worship. "I cannot tell, but my servant can tell." The servant was brought. "Did you miss any poultry from your yard this morning?" inquired the judge. "No; I counted them and found my own number." The gentleman by this time saw the "fix" his officiousness had put him into,—and for long afterwards the poultry story was kept up upon him as a standing joke.

that they should have "sport," and that too of a highly questionable description.

When any party sets up a claim for his goods to be "protected," a careful examination should be made, for there is uniformly some unseen but insidious design concealed under it. We deny that the landowner has a better right to the game than any other man. Further, should the legislature declare it to be his, we deny that such property should obtain more special protection by law than other kinds which are ten times more valuable to the country.

It may not be amiss here to note the first invasion of common law and of common liberty. From time immemorial wild beasts were common to all (saving those in royal forests.) To prevent breaches of the peace, the act 1621 was passed, limiting sportsmen to such as possessed a ploughgate of land. This was *the law* regulated by statute, and we beg particular notice to the reasons for its overthrow, and that by those who ought to have been its unfailing protectors. "It was in 1790 that the extension of the game act was *mooted*. A Mr Livingstone having hunted on some muir belonging to the Marquis of Breadalbane, the Lord Ordinary assoilzied, but the House of Lords granted the interdict."

"The reasoning that influenced the Court of Session in the judgment of this case does not appear to have been founded on the supposition, that unenclosed lands were not free to be hunted upon by all before the qualifying act; but it seems to have been dictated by *expediency*, or by some such collateral views, as the only observation communicated in the report is, that it was thought that the right claimed by Mr Livingstone was of a very anomalous description, as it could be at once annihilated by a proprietor enclosing his grounds." If we know any thing about what is meant by the glorious freedom of the British constitution, we can imagine nothing more antagonistic to its spirit. Farmers! this is the grand original and first beginnings of all your loss and vexation by game. For if the proprietor could and should be taught to *enclose* his

preserves, what harm could that do to you or any other? Imagine, too, a great fundamental and natural law overturned for only some *fancied* expediency! About equity and justice there may sometimes be a difference of opinion in some minor cases; but there can be none here. We know not what learned judges were concerned in this disgraceful affair. It may have been their *opinion* (and perhaps their *wish* to restrict the common ploughgate privilege), that such was according to justice,—but how could they go in the direct teeth of a statute? \* Those that upheld the game laws as an old vested right, may judge for themselves by this decision, whether they partake of the character of just rights or of arrogant and recent usurpation.

“The probability,” Mr Grigor goes on to say, “however, is, that as agriculture and the value of landed property had materially increased, it became of importance to restrain the old privilege of hunting even upon waste lands.” If by the industry of our people, and the enterprise of our merchants and manufacturers, the value of land had naturally risen, the rise only seems to have whetted the appetite of our greedy superiors. They ought to have been very thankful for the extra value their properties had acquired without any trouble or exertion on their part. It was all found-money to them, and surely this could afford no excuse for transgressing the common and statute law of the realm, as well as trespassing on the common liberty of the subject. The privilege of hunting on waste lands was, no doubt, “become of importance.” Yet does that prove, that because my little wealth may be of some service to a rich neighbour, he must plunder me of my all?

*Of the Trespass Acts.*—This is a great stalking-horse on which our sportsmen may ride to shoot game.

These acts were first introduced, as far as we know, in 1829, and, if we mistake not, were unknown before that date. The first was the “night act,” that for the “day” was passed 2d and

\* Judges ought to remember that their office is “*jus dicere*,” and not “*jus dare*,” to interpret law, and not to make law, or give law.—BACON.

3d William IV. Among other conjectures, Mr Grigor advances some reasons for the decision in Livingstone's case. He says, "It became of importance to restrain the privilege of hunting even upon waste lands, as it *might possibly* lead to a trespass upon land of some value"!! Really this is beautiful reasoning. We must not in future walk the streets, in case by and by we may do something worse! We must in future have our tongues pulled out, lest on some future occasion they *might possibly* be used for some scandalising purpose!

Property, in the first place, belongs to the nation. It is leased out to parties who uplift the rents, and pay them into the exchequer annually, or by purchasing the rental, pay it in one sum. They can exercise no "right" or authority over it to the prejudice of the public. If we had no "game laws," there would be no use for "trespass acts." Abolish the one, and it does not matter whether you abolish the other or not. When a man purchases a property, improves and fences it, common sense will tell us that no one should destroy these. If a man plant a hill with trees, it is right that these trees should not be wantonly destroyed. Against such wicked and mischievous doings the common law affords ample redress. It needs no *special* statute to insure a man in his own legitimate rights. It is only where landowners have some ulterior object to obtain that they take the sanction of the legislature to bolster up some arrogant usurpation. Just rights need no such proof, they can stand on their own legs.

It is painful to contemplate the length to which this imaginary right might be stretched. Country people often make the remark, that they cannot travel anywhere now but on the turnpike road. "Aye," said a cautious farmer to us lately, "and some folks might try to keep us off it if they could." They have attempted things more outrageous than even this. If this claim were to be pushed forward in the same ratio that it has been during the last sixty years, we would soon have to bid adieu to fresh air and landscape scenery. It is true that many of our proprietors allow the people to ascend the hills,

but it is not proper that they should give *as a boon* what belongs of right to all Scotchmen, and what cannot be alienated under any pretence whatever.

It is possible that circumstances might arise calling for "protection" to the just rights of landed property, but upon this we insist (and we challenge contradiction to the assertion) that such "protection" should be single,—in other words, that a recognition of the true rights of *land* should not include *indirectly* a right to things that it does not possess. The right to game and the right to land have no connection the one with the other ; but it is a piece of beautiful Jesuitry that has joined them together. Thus, the proprietors of Scotland might say, "The fish of the sea do not belong to us,"—but if they say likewise, "*Scotland* being ours, we will not allow any man to pass over it to get at the sea," then of course they would make the fish theirs too.

The whole claim of trespass ought only to be for what *damage* is done to the proprietor's property, or to his fences, and it includes of itself no right to game whatever. Be it noticed that this arrogant assumption is only of yesterday. It is a "right" of which our fathers knew nothing. And as we said before, it is only a prop to support the tottering fabric of "game laws."

Is such an assumption consonant with the true interests of society—of the human family ? Is it proper that whole tracts of beautiful country should be shut up to minister to the depraved appetite of one man ? Is it proper that our finest glen scenery must for ever be hid from human view, lest the appearance of a human figure should scare away a herd of deer, and prevent cruel men from enjoying a shot at them ? Is it proper or just that crowds of citizens should be pent up in lanes, debarred from enjoying the pure air of heaven, merely to flatter the caprice of one individual, who, as Goldsmith says, has not found some more rational employment than shooting game ? But for the sake of protecting game, no proprietor would ever think of stopping the public from going where

they can do no harm ; and further, few of them are so cruel as do it, although they could. It is not them personally we blame for such unwarrantable conduct, it is the game law-rules that create the necessity which they only fill up. We have always considered this as a disease of the *system*, not of local outbreak only. This of itself is no small mischief, flowing directly from the unjust and impolitic enactment of game law-rules. In our opinion, it is enough of itself to cause a repeal of their enactments ; aye, even although they produced no other evils than this. We could mention many notorious cases in proof of what has now been said, and of the construction put on this trespass act ; and, were it necessary, we could produce evidence, and that to the satisfaction of all ; but we leave it to the consideration of every individual, satisfied that there are few in Scotland who could not find examples within their own experience.

*How does this trespass act stand in relation to science ?*—If botany and geology be useful to man—if their pursuit afford him rational amusement—if the exercise afforded in collecting specimens be of the purest and noblest description—if their general appreciation would exert a most beneficial and lasting influence on the *habits* and *manners* of society—if our people, instead of finding recreation in taverns, could be persuaded to bestow some leisure upon these instructive sciences, such employment would, most indubitably, induce a healthy tone in society generally. We may well ask how this recent claim of trespass would promote the best interests of the people in connection with the furtherance of the sciences ? We may be perhaps too sanguine, but we hope to see the time when our whole population shall know and appreciate geology and botany more than they have ever done before ; and this, along with the study of other sciences, will do much for the upraising of our common nature. Government should foster and kindly encourage such pursuits, instead of lending its sanction to their hindrance.

*Of the rearing of game as a source of national wealth.*—We

hear many speak of the money which game fetches to the country, especially to the Highlands. Granting, for the sake of argument, that it is a legitimate source of *wealth*, what are the best modes for propagating the wild animals? Is that the principal motive for supporting the game law-rules? Even in the Highlands, we maintain that the rearing of game is a great loss to the country generally. We know of many moors where cattle and sheep used to be fed that are laid waste entirely for "game." Farmers from the north tell us what great sums of money are realised for red-deer. We ask them whether or not the grass would be more profitably employed in feeding west Highlanders or in grazing black-faced sheep? We know of many plantations destroyed by them. We know of many fields laid waste in almost every part of the country in order that the "game" may increase. We know of one glen where 600 or 700 industrious people found a home that now produces little or nothing saving red-deer; moreover, we could calculate the sum which is annually brought to the country by them, at least to that district. Will any man barefacedly tell us that these animals *produce* more food to the people; that they help to increase the general stock which is to feed mankind?

Again, we are asked, cannot a proprietor make what he chooses of his ground? Granting, for the sake of argument, that he can,—that he could, if he chose, propagate *wolves* instead of deer,—we ask, *What right has he to get an Act of Parliament*, especially protecting and encouraging this foible of his? History tells us of a Roman emperor whose "chief pleasure was to breed chickens in the palace, which knew his voice, and fed from his hand." The historian\* adds: "There was certainly no harm in this,—*it was a very innocent pleasure.*" Now, it would have been much worse if Honorius, besides patronising in his august person such paltry amusements, had enacted a law declaring *poultry* to be sacred: that although they destroyed people's corn, yet it would be

\* Sismondi, vol. i., p. 128.

punishable to point a finger at them : \* moreover, the honest cultivators of the soil dare not, in such a case, say a word about the damage their fields would sustain, nor ask redress. Foolish as Honorius was, he attempted nothing of this sort : far back as the Romans were, they would not have tolerated such arrant folly in the name of law.

Grigor, in his treatise on the game laws, advances two conjectures about "game." He says that certain animals were denominated game either on account of the nourishing and delicate food they afforded, or the healthy and exhilarating exercise sustained in destroying them. We have already, in a general manner, posited that trade is the grand way of ministering to the wants of man ; and that if such delicate food be necessary or wanted, his energy and perseverance are quite equal to the task of supplying it. Let us now inquire how these enactments affect *production* for the supply of the wants of mankind.

It is necessary for a farmer to *feed* his stock ; so it would be necessary to feed birds, if they were to be reared in abundance. Nature, without the addition of industry, could support comparatively few animals : the perseverance of man multiplies the common stock both for man and beast ; his industry creates additional supplies ; and when he seizes the animals of the forest, and brings them under his dominion, their multiplication proceeds according to his perseverance. These, we have said, it is necessary to feed, because the sustenance they could themselves obtain could neither maintain their *number*, nor sustain their present quality. Although a farmer finds it necessary to supplement, from the fruits of his industry, his cattle, his horses, his sheep, yet it is not necessary that they should run *loose through growing corn*, because the part they would eat would be nothing compared with what they would DESTROY. Every farmer gives turnips to

\* Interdict was granted against a tenant scaring game by muzzled dogs, and guns with blank-cartridges, and using snares for rabbits which were alleged to be calculated to destroy game.—*Wemyss, 2d December 1847.*




his cattle in winter; it is not necessary that his cattle should roam over the whole field at once, for this plain reason, that when they break the skin of one tuber, the frost will complete the destruction of the rest of it. Thus the production would probably be reduced to one-half. By the present enlightened method of propagating other animals or fowls, the amount they destroy is much greater than what they actually devour. They trample down the victual, they make roads through it, their *ordure* is most pernicious, destroying vegetation wherever it comes into contact with it. If our farmers adopted such an enlightened and scientific system of *feeding*, how long could they farm? They might make some attempt at it provided they got their lands rent free, but certainly not otherwise.

*Of the "closed time."*—We have often been told that this is a merciful regulation for protecting the animals in their breeding time; that if the game were allowed to be killed in the close season, their procreating power would be destroyed, because if you kill one grouse-hen in March, it is tantamount to killing some half-dozen in August. Severe fines are imposed for breaking this righteous law. If a carrier should have a score of grouse in his possession on the 10th or 11th August, he is subjected to a fine of £5\* per bird, that is £100 in all. This penalty is generally exacted. Again, should a dealer have any in his possession after December, he is subject to the same amercement.

We only need to seize this bull by the horns to have him completely in our power. The key of this lock is not difficult to find. Let us peep a little further into the nature of those tender mercies, and we shall perhaps find them only a refinement of cruelty.

\* A poacher was brought before the court at Inverness some years ago about end of July, and fined a considerable sum for poaching. The presiding judge inquiring when he might be able to pay the fine, he boastingly replied, that "provided the birds were strong and weather favourable, he might manage it in a week." The prosecuting solicitor insisted upon his being committed to jail immediately. The high price he would obtain for birds in the close season would be very great, and enable him to pay the fine.

By taming animals we can obtain their flesh good at all seasons of the year. Thus we know when and where venison was formerly killed all the year over, and perhaps it was best in quality at the very time when a sportsman would tell us it was not fit for any man to taste. If we kept cattle in a wild state, we could only obtain beef at certain seasons. But now the simplest clown can tell how we can obtain it equally good at all seasons. We can see no harm whatever in eating fowls in one month more than in another. If it be right to eat them in the month of August, we cannot see how it would be wrong to partake of their flesh in the month of March. But why say a word more on the subject; let us at once submit, that this "*close time*" is made purposely for "sport." If the farmer would take it into his head, when he wanted beef, to fire *indiscriminately* into his herd of cattle, it would be necessary for him only to do so at the "*close*" season. If the hen-wife, when she wanted a fowl for broth or for market, were to *shoot* into the middle of her flock, breeding time would not be the best time; but there is not a silly old woman in the whole country that would be guilty of such an absurdity. By carefully selecting her fowls, she weeds out such as are too old for breeding, and which it would be useless to keep longer; by leaving such as are possessed of the best points, she gradually improves her stock. Those she intends to kill soon, she bestows some extra food upon them, in order that they may be fat and plump. Besides, the method she takes of securing the prey is attended with far less cruelty than if she dealt death with an unsparing hand into the middle of them; by her simple method she does not *wound* such as escape with their life. But what does the merciful sportsman care though unoffending animals should pine in suffering if he get his "*pleasure*." *Close time*, then, means, that some people wish to kill the animals by a cruel and barbarous method, and that it is necessary that their sport should be protected in case the animals should be unduly diminished, so as not to afford sportsmen the pure and



high delight of butchering them in the most cruel manner it is possible to devise. If farmers and hen-wives adopted this approved method of *killing* market animals, what would be the result? How would it pay? How could the breeds be improved?

But some will say, "You have denounced one manner of *feeding* and killing, propound another." Now, humble as our pretensions about our "buik" are, we really cannot degrade it so far as to discuss the methods of taming fowls. If any man should be so amazingly ignorant, we know of no better place he could go to than the neighbouring school, where the dullest boy could afford to give him a great amount of instruction. In our young days we tamed rabbits, deers, magpies, jackdaws, hawks, gledes, owls, and we have known the "gouk" tried, but the attempt failed by mistaking his dietary. School-boys apply a wonderful amount of philosophy to this pastime; they know well the feeding necessary; the best time for catching when they are "ready for taking," &c. &c.—not from teaching but from observation.

*Of the present rearing of game generally.*—Some people tell us of the large sums spent in the country in its preservation, meaning thereby that it is a lucrative source of trade. We have in vain attempted to discover the exact amount realised every year; to ascertain the *outlays*, would entail an amount of expense and labour that we have no wish to bestow. It would, however, be a matter worthy of investigation by some statist, in order that we might see at once the monetary bearing of the scheme. After carefully noting all the evidence we could obtain,—and that, be it observed, in only a section of Scotland, which, however, may be worse than the average,—the damage we sometimes see done to whole farms and estates may bulk largely in our eyes; but, after all, we may be allowed to state our conviction, that the *outlays* for game are more than equal to the *whole value produced*. Count all the keepers' wages, the expense of kennels, the *price* of grain distributed in the woods; the outlays for powder, shot, guns,

and the personal expenses of sportsmen—which should be counted, (if not, an estimate at so much per hour of their time, which should be taken in, if this question be studied in a *productive* point of view.) *Per contra*, calculate the amount received from dealers, value the amount of what is presented to friends, and perhaps it will be found that our hasty estimate is not very far wrong after all. We are quite aware that much can be said against our conjecture, but we are likewise aware that much can be said in support of it. Without entering into details, we are aware of some “heavy items” that would perhaps astonish some people.

If our conjecture be nearly correct, we can have some idea of the *tremendous loss* we sustain as a nation from these obnoxious statutes in a commercial point of view. All the destruction to corn, all the damage to plantations, the grass devoured, which formerly yielded the best black-faced sheep to Falkirk, all that wealth is *positively* dissipated,—our national resources are to that extent actually crippled, in order that a very few may enjoy “*sport*.” This is keeping entirely out of view the damage done to our *morality*, the evils inflicted on our *population*, of which more anon. We have said these losses are positive; we can form no idea of the negative loss from their hindrance to our industry; we cannot tell how many fields but for them would have been reclaimed; we cannot tell how many wastes would have been planted; we cannot conjecture how trade would have been spread in remote parts but for their interference; we cannot estimate the distribution of population in our glens, instead of banishing the best of them to the United States, and throwing the worn-out and feeble into towns. These are evils of whose operations we are personally cognisant, but of the extent of the damage done to our nation thereby we can make not even a guess.

This view of the game law-rules is brought forward for the purpose of meeting objections, rather than for elucidating any new idea of these institutions viewed in a scientific

aspect. To most people it is sufficiently clear that they are solely for purposes of sport; but as we are aware that many would uphold them as a benefit, as a means of producing food that could not otherwise be obtained, and justifying their continuance as a national good, we have, therefore, attempted to dispel this illusion. We have looked at game law-rules in the light of production,—let us now inquire how they *interfere* with DISTRIBUTION.

We refer the reader to a former chapter for a sketch of this division of political science, and we now beg to posit, *That as justice is the right of all men and all classes of society, government, therefore, should do nothing to benefit one class at the expense of another.* We are told that if the farmer take his farm knowing that “game” is to infest it, he has no right to complain. If the farmer chooses to feed a dozen of oxen as a part of his rent, who has reason to interfere? If the farmer agrees for fifty hens as “kian,” who can find fault? Should the tenant agree to graze ten horses on his grass every year, who is so officious as to blame him for it? But if the laird, instead of ten horses, should insist on sending twenty, has the farmer any redress? He may protect himself by an action at *common law*, in which case he will doubtless obtain relief. But is he in the same position with the “game” upon his farm? We ask any lawyer, we ask any man at all acquainted with such matters, has the farmer the same protection against an overstock of “hares,” as against horses? Doubtless, if he risks his whole property, if he is inclined to wage a war in the Court of Session with his rich laird, he may *possibly* obtain some satisfaction. But the *odds* are all against him. The laird is secured by *statute law*, and if the farmer chooses he may give battle under such great disadvantages; prudence generally tells him to wage no such unequal strife. Such as have done so, would not advise any other to try the hopeless encounter. Should he gain, it will be only after a world of trouble and vexation, and then he finds no landowner will even treat with him for a farm. Is this what we call in the Highlands

"equal justice?" Why should special laws be enacted that militate so strongly to the prejudice of one class, and that class the most valuable of all perhaps in the country districts. If there be "protection," the one against the other, the farmer should have it, because the "progress of the nation" is so far involved in his prosperity, in the amount of "production" his capital and industry creates. An old Scotch statute is prefaced with "IVSTICE sovld be ministred equallie to all men." Is this the spirit in which *modern* regulations anent "game" are made?

Should the farmer refuse to graze the horses or hares, has the rentowner no power to compel its fulfilment? He has ample recourse and he ought to have. Common law will and ought to afford him this, *but statute law should do no more*. A member of Parliament some time ago introduced, as a cure for all the evils of the game laws, a bill entitling the tenant to *damages* caused by the ravages of game. How would that answer for whole tracts of country where *there is no tenant at all*? Landlords could easily cure this by sending tenants to America, as is done every day.

Some will tell us that "game laws" are for the purpose of making people take exercise for their health, to preserve them "fra becoming altogether effeminate." Grigor says, that the other motive alleged for their adoption, was for the "healthy and exhilarating exercise sustained in destroying them." Considering the great number of facilities the rich have of taking exercise, and the leisure they enjoy compared with the hard-working mechanic, they ought to be quite satisfied with such superior advantages, without making Acts of Parliament specially to take care of *their health*, while they abstract from those formerly, and till very recently, enjoyed by such as have more need of any little privilege they may possess.

The stringent protection of "game" is only of recent growth, for most people know that it has been gradually rising within the last thirty years. Before that time, game was free on most estates, and if there were any keepers, they

were not nearly so "*learned*" nor so officious as the present active fellows. Although it was not lawful for a man not possessed of a ploughgate of land to hunt or shoot, yet few were even challenged unless they were very greedy. Old people tell us, that in former times they obtained considerable supplies for their "kail-pot" from ginning hares, roe-deer, &c., &c. We are aware that in some places they obtain a good deal yet in this way. To those who have the will and opportunity, it would be no unprofitable employment to inquire into the amount of "CRIME" created by game since 1800, contrasted with the amount before that period, *if there was such a thing*. When game began to receive protection at first, it was a trifling affair altogether. Its advance has been insidious. As far as we know, *selling game* is a very recent invention, *now* it is as common as selling wood or minerals. Formerly, the tenants got a considerable quantity of what was killed *distributed* among themselves. It is very common to hear a farmer saying, If we got any of the birds we fed it would be some satisfaction, but now we get none. The next train or steam-boat after the *battue* is over, conveys them all, or nearly so, to southern markets. The farmer might excuse a moderate supply on his farm when he was to reap some amusement from their destruction, or some soup from their death; but to see his crops destroyed for sport is bad enough, and it is still worse to see the birds his farm has reared transferred to a game dealer, and the profits pass into the pockets of another. The strange thing is, that the farmer is the principal supporter of those statutes that enable others to plunder himself! Although no proficient in the natural history of pastimes, gambling, or sports, we believe this new method of cross-breeding gambling and sport is novel, and deserves a prize for ingenuity. In gambling-houses, *money* is the grand exciting motive; in fox-hunting, otter-hunting, &c., *sport* is the desideratum; but this hybrid supplies both. The lessee of shooting-grounds calculates exactly the amount he will derive from sales, which must of course make the expense of sport a

great deal less. Some, however, are not addicted to this mode of sporting. We know of one gentleman who had a more correct sense of what the tenantry deserved—he last year distributed the whole spoil among them. Such instances are very rare now-a-days. Many landlords never interfere with the game at all. They allow the tenants to do as they please regarding them, but we suppose such landowners have abundance of animals to shoot at for all that. Suppose the “game laws” were abolished to-morrow, we are convinced that a moderate supply of animals would be kept up by the tenants and *guarded* by them, but not to such an extent as would injure crops, or otherwise affect the resources of the country.

We maintain, therefore, that the game statutes arbitrarily interfere with the *distribution* of produce, and that they place one man in a better position, and under their cover he can seize more than his proper share at the expense of another. This is quite inconsistent with a just spirit of legislation, which views no class of men as better than another.

*What kind of sport is patronised by the game law-rules?*

We have endeavoured to show, that they are not only useless as a protection to trade in animals, but that they are as hostile thereto as they could well be. We can by no means fancy any other purpose for which they could have been made than for *sport*, that is, the wild animals are purposely kept wild, and their numbers increased by unfair means, solely in order that a few men may enjoy the pleasure of “destroying them.”\* Is it unreasonable that we should now inquire, what kind of sport this is that is so highly patronised by our legislature, that has obtained so many statutes in its favour, solely that it might be continued in its full efficiency, that has got fortifications reared up, hostile to the liberty and comfort of many individuals, as well as highly prejudicial to our prosperity as a nation? We posited at the beginning of this chapter, 1st, That government should not

\* Grigor on the Game Laws.



interfere with the innocent amusements of the people ; further, that as some sports were detrimental to the welfare of society, government should not foster or encourage such. *Shooting game being a sport highly prejudicial to the public welfare, it is distinctly NOT the duty of government to encourage it.*

If "protection" to sports should be found desirable (which it may be, as much as in the case of corn), we ask, Is shooting game the best amusement that could be devised? Would it be found beneficial to the many or the few? Why should it not be classed with bull-baiting and cock-fighting? "We should be inclined," says Dr Chalmers, "to subject the lovers of the chase and the lovers of the prize-fight to the same treatment, even as there exists between them, we are afraid, the affinity of a certain common or kindred character. There is, we have often thought, a kind of professional cast, a family likeness, by which the devotees of game and of all sorts of stirring or hazardous enterprise admit of being recognised; the hue of a certain assimilating quality, although of various gradations, from the noted champions of the hunt to the noted champions of the ring or of the race-course. . . . They indulge the same tastes even to their very literature, members of the same sporting society, readers of the same sporting magazine, whose strange medley of anecdotes gives impressive exhibition of that one and pervading characteristic for which we are contending,—anecdotes of the chase, and anecdotes of the high-breathed and bloody contest, and anecdotes of the gaming-table, and, lastly, anecdotes of the highway."

The grand distinguishing feature of game-sports may not unfairly be styled as consisting in *cruelty to animals*. The sportsman rejoices in the bird gasping at his feet, it delights his heart when he sees it fluttering in the death struggle. To deny there is pleasure in it, or at least excitement, would be foolish; but it is one of the lowest that can be partaken of by man. It can cultivate no good feeling in him. If you engage in a game of chess, the exertion that the mind re-

ceives is not only exciting but useful. If you succeed in finding a beautiful and rare specimen in botany, you feel refreshed and encouraged. If you lay open with one blow of the hammer, a stone encasing a fossil fish, teeth, scales, and fins all complete, is that not a much higher enjoyment than depriving an innocent and harmless animal of life, or, at all events, partially wounding it, and thus keeping it pining in misery until it linger away in death. We have always considered, that the pleasure and exultation derived from bringing down a fine deer, must be very similar to that felt by the butcher when, with one blow, he lays a heavy "bullock" flat at his feet. We are told that butchers boast when they accomplish it well, and they affect to look with disdain upon a raw bungler who would show his want of expertness by striking several times. Suppose a man has been particularly fortunate in shooting a great number of birds, how can his *mind* enjoy the pleasing reflection! It may flatter his vanity to see the heroic achievement flourishing next week in "Bell's Life," and copied by the local press; but what *rational* pleasure can it afford? Is such a pleasure participated in by minds of the lowest or of the highest kind? does such a frame of mind foster feelings of cruelty or of amiability? Are butchers more amiable in their dispositions because they are always slaughtering animals? We imagine that the men who could receive intense delight in beholding the acute sufferings of a dumb animal, would not derive lessons therefrom of love to their fellow-men. Dr Chalmers said, "Nothing could be imagined more keenly, or more energetically contemptuous, than the impatient, the impetuous disdain wherewith the enamoured votaries of this gay and glorious adventure would listen to any demonstration of its unlawfulness." We are not at present preaching to the sportsmen. We are not appealing to their tender mercies. We are not asking them to forego the veriest gratifications of their vanity,—to stop from wringing from animals the anguish of suffering. *All we ask is, that they do not receive from Parlia-*

ment something like a premium for such cruel and cowardly conduct. They may care little to be told of the world of suffering inflicted on the lower creation on the 12th of August; but we are not called upon to give our sanction to such enormities being perpetrated and multiplied under the sacred name of law. An Act of Parliament was passed some years ago for punishing cruelty to animals. It is no doubt a righteous statute. Does the great infliction of cruelty on game not run counter to its spirit? "We know," says Dr Chalmers, "that the cause of poor and unbefriended animals has many an obstacle to contend with in the difficulties or the delicacies of legislation. But we shall ever deny that it is a theme beneath the dignity of legislation, or that the nobles and senators of our land stoop to a cause which is degrading, when, in the imitation of Heaven's high clemency, they look benignly downward on these humble and helpless sufferers."

Instead of government interfering *actively* to help forward such cruelty to animals as our "game laws" induce, it is very questionable if they be not called upon to put down such a cruel method of slaying animals merely to minister to corrupt pleasures, and pander to a vitiated appetite.

*Their immorality.*—It is only necessary to note that law creates crime. Thus there is no sin in my walking out after 12 o'clock at night. Yet martial law having been proclaimed, it is a crime for me to disobey. What was innocent last night, is deserving of punishment this night. Were our legislature to declare that any man drinking water, without first paying a sum to the revenue, would be punished, would this not *increase crime*? We believe it wrong to indulge too much in intoxicating liquors, yet if taking more than one tumbler constituted a breach of the law, would that not of itself *create more crime*? How much crime has been caused by our game laws running counter to natural laws? Take up an English newspaper, and see if there be not some charge of *murder* against some parties for shooting a gamekeeper. Look at the *bands* that infest many peaceful counties, creating alarm and

dismay in many dwellings, solely because "game" has been appropriated to a certain class instead of remaining free—the property of every one—as mostly all able lawyers have declared it should be. Voluntaries deny that the state has any right to *promote* religion and morality; will any of them say it has a right to propagate *immorality and crime*?

But some will tell us it is the people's own blame, they ought to obey the laws; yes, but laws are not intended to be *traps*, to tempt people to break them. They are the reverse. The civil magistrate is intrusted with the power of punishment, he inflicts penalties not *wantonly* but unwillingly, in order to prevent others from being guilty of like faults. Parents have power over their children to flog them, but do they lay snares for them that they may delight in causing them pain by whipping? A few days ago, two children, aged respectively two and six years, were brought before a magistrate for setting gins! Does such conduct tend to repress or foster crime, or cause justice to be respected? *Punch* took up the case, and suggested an advertisement for a wet-nurse! We have always understood that juvenile delinquency has been attributed, in some degree, to the fact, that the youngster, from frequent punishment, becomes case-hardened in wickedness. Of this there can be no doubt, that the game laws cause a large number to be criminals, that, but for them, would have been respectable members of society. This division of our subject comes more properly under the notice of the moralist than the economist, and to his care we shall leave it; merely hinting that there is ample room for expatiating on its enormity. He may note as worthy of observation, the loose ideas prevalent among all classes regarding the sacredness of this species of property. In some districts you might trust many kinds of goods to lie open on the highway, yes, for weeks, without the risk of their being stolen; but those people who are thus scrupulously honest in so far as all other property is concerned, possess very different opinions about game. It belongs to them naturally,

and parliament may attempt to deprive them of it, but they pay little regard to such artificial laws. Look at all the different kinds of property in the kingdom, and ask whether there are not more depredations committed on this species of property than on any other kind—an evidence that man feels nature's gifts to be free to all.

*Expenses.*—We regret to say that we are without statistics on this subdivision likewise; the reader may, however, make inquiry himself. The want of information may be productive of good, should it have the effect of stimulating him to examine the subject more pointedly in all its bearings. Independently of the demoralising tendency of these laws, the *expenses* incurred in prosecutions, in keeping up jails and penitentiaries, the numbers who are banished, must be very considerable.

Government has the power of collecting taxes—which are undoubtedly a mighty drawback upon the nation; but should these funds be raised for the purpose of protecting a species of gambling? In France, gaming-houses pay a licence to government, but our gaming *costs* it annually a large sum. Truly if the gamblers must have their sports protected, they ought to *pay the expenses themselves*. The country is no way interested in the extent of their amusement. But we may be told that government derives a considerable revenue from shooting licences. Is this because game is *protected* by Acts of Parliament? Could a revenue not be derived from shooting licences if these laws were abolished? In such a case, *double* the number of certificates would be taken out. Some moralist may be ready to ask, Is licensing “gaming” a proper or just mode of raising taxes? We have always heard the French condemned for licensing gaming-houses and brothels. This question is connected with another general subdivision in political economy, viz., *taxation*. Our present subject is but slightly interwoven with it, and we forbear saying more, as it would be out of place here.

*The Law of Evidence.*—It is laid down in Scripture, that a man should not be condemned without the testimony of at

least two witnesses. This is manifestly a just provision, and the ignoring of it would be attended with danger to the person and property of the subject. Thus if a man were actuated by enmity to his neighbour, he might swear that he was guilty of a certain crime; but if another witness had to be examined, cross questioning would be most likely to elicit the truth. Two witnesses have, therefore, by the laws of all countries, been required to establish guilt. Such is the common law of Scotland and England, saving where its domains have been invaded by statute. It is highly questionable how far Parliament should thus go in the teeth of natural laws; or if they should break through them under any pretence whatever, at least it is very evident that some dangerous emergency should be the only occasion for so doing. Special statute has declared that one witness is sufficient to convict a man of poaching or of trespassing; and trustworthy people in the country tell us that this is a great abuse; that gamekeepers get up cases on the slightest pretext;—for instance, if a hare pass close by a man who has his dog along with him, they frequently manufacture such an accident into a serious crime. Does such a regulation consist with the liberty of the subject? Does such an infringement of nature's laws promote the good of society? It does appear to us that property which requires such props to keep it up, must have been ill-gotten—there must necessarily be something wrong about it. Many kinds of property could be named as far more deserving of extra protection than game, yet no such enactment is passed in order to give it greater security. But why say more? This is evidently a *class law*, made for the benefit of a few, and it ought not to be continued as a blot on our statute-books. "In the mouth of two or three witnesses let every word be established."—(1 Cor. ii. 13.)


*Who uphold the Game Rules?*—There is not a more common subject of invective than that against landowners for keeping up the game laws. Farmers and others load them

with abusive epithets when their backs are turned, for so doing ; they are represented as heartless oppressors destroying good crops for their amusement. In such a sweeping condemnation we cannot concur. We have already stated that the present landowners are not worse than their neighbours, or than we would be ourselves if placed in their position. We nevertheless think that the higher classes ought to betake themselves to some nobler employment than inflicting cruelty upon innocent animals. From the high rank in society which they occupy, they ought to be examples of good behaviour, so that others might look up to them. But we exonerate them from the charge of keeping up the game laws ; as a class, they only form a constituent part of our legislature, and the glorious British Constitution is so admirably balanced, that no one class can obtain laws for the purpose of oppressing its neighbour.

There is no remark regarding the pursuit of farming more common than that it is a life of independence ; that after the lease is signed, the farmers are secure of a business and a home for a period of twenty-one years, and that, in fact, they need not care for any one. Doubtless there is much truth in it ; they have not the tear and wear of mind that other people have ; theirs is like a business long established, the connection needs not to be made or kept up. Those doing business with farmers are quite well aware of the independence that they generally assume ; they will only execute orders when it suits themselves ; they are the first to demand payment of their own goods, the last to pay their own accounts to the merchant. Were they only to carry their independence with them to the polling-booth, things would be different ; they have ever been the drag upon the wheel of legitimate reform ; they are possessed of no more influence in Parliament than the tailors or carmen of London ; for if one among them give an independent vote, ten will counteract it by voting the other way. It is somewhat strange that the agricultural community, one of the most im-

portant in the commonwealth, is almost entirely destitute of political existence. The landowners may have originally got up the game rules; they may have forged the chains, but assuredly the farmers have rivetted them on their own necks. It is strange that urban constituencies have been moving in the matter of game-law reform, but they are out-voted by the agriculturists, who, in fact, put further wrong what the town's people have endeavoured to put right, although the agriculturists are the parties immediately interested.

This subserviency on the part of the agriculturists is certainly, to say the least of it, *unpatriotic*; they are unworthy of the liberty which flourishes in Britain; their sycophantish conduct is certainly much more like what prevails under Russian despotism than under the benign influence of British freedom. Had there been no other class but farmers in our land, we would yet have been under heritable jurisdictions, and many other similar abuses. The registering of a vote in favour of a legislator is a solemn act, and ought not to be trifled with; besides, to trifle with it is a sin, and that too of the deepest dye. Man is a responsible agent, endowed with reasoning faculties, but yet, alas! many openly disallow the government of reason, and sacrifice its attributes to the caprice of some petty tyrant! Many unquestionably do so for the sake of an advantage,—at least they *hope* for some; and we are glad to say they are often miserably disappointed;—they well deserve it, and they are served very right. There are very many proprietors who would despise to interfere with the electoral privileges of their tenants, and carefully abstain from influencing their minds by any thing like sinister temptations. Such men stand out in bold relief from many of their class, and such are not the men who would cause crops to be destroyed to minister to their amusement. If our agriculturists would really consider themselves men—that is, in the better sense of the term—and if they would act conscientiously in the matter of voting, we would see a different state of matters from the present. Instead of themselves being





trampled upon, and treated with the utmost contempt, we would see them respected and courted; and instead of their begging favours at the hands of their proprietors, we would see them *offered* every encouragement they deserved. Cowper paints the negroes as free *in mind*, although slaves *in body*. It is a far worse slavery to be free in body, yet a slave in mind.

Let us now conclude this chapter by sketching the influence of game upon the landward districts, especially upon the Highlands. It is observable that game is most destructive upon poor lands, as the corn is thin and short, consequently much more within the reach of hares than when it is tall and strong. This is a great barrier to the improvement of waste lands, which, instead of being discouraged, ought to be encouraged as far as possible. Again, lands now lying waste are nearer the dominion of game, where they hold their despotic sway, and consequently the farmer's outlying fields are much more exposed to the ravages of game than parks in more cultivated places; hence, the further he improves, the more he is subject to their inroads. They hang like the Cossacks upon the retreat of the vanquished enemy,—the weaker the fugitives, the stronger the pursuers become. Any enactment that would thus operate actively against the cultivation of our waste lands must be particularly pernicious in its effects, and tend most effectually to check our prosperity as a nation.

But for the protection of game, the grazings of the north would be much more productive of food to man. We are quite aware that there are serious difficulties in the way of improving the heaths and moors, yet still such improvement may be accomplished by industry. In many places open drains have done immense good, and repaid the landowner well. But they could be profitably extended to a greater degree than they have yet attained. Snow has the effect of keeping down the heather and allowing the grass to grow freely and well. Look, for instance, at any spot where there has been a wreath of snow lying longer than usual, and you

will find the heather gone. Look at the sweet grass always noticeable behind dykes, where the snow has remained unmelted by the sun's rays. Perhaps this is one reason why the heather retreats from plantations, where the trees keep off the sun's rays from the snow, and allow it to thaw gradually away. But whether or not this theory be sound, it is undoubtedly a good thing to encourage plantations in the hills for the purpose of sheltering the cattle and sheep. In many places great prices are obtained for the timber itself, thus bringing trade into the country, and affording employment to many individuals. The natural wood seeks shelter from the winds in dells and corries, where it grows up most luxuriantly. Now, it certainly appears clear enough to our mind that strips and patches could be grown profitably along the hill sides, and by and by the thinnings would make excellent fences, which are much wanted in some places. The Piedmontese could afford us a good lesson by their industry, but they are not hampered by obnoxious statutes as our Scotch peasantry are.

In landward districts where there are no manufactories, work is very scarce in the winter season; hence the people have nothing to do, and are hungry into the bargain; the temptation is, therefore, very great to indulge in what is generally called "poaching." Is it right to place such a temptation before innocent people? is it wise in any government to adopt such a line of policy? On this account dwelling-houses are *universally proscribed on large estates*—down they must go,—the people may starve in the cold if they choose, yet houses they cannot get; the site for a dwelling-house upon a gentleman's property cannot be obtained almost for love or money:—a strange state of affairs! How long is man thus to be kept down by the caprice and ignorance of his fellows!

In the low country the "game" touch the pockets of farmers, and they circumscribe the comforts of the people, yet in doing so, they only interfere with the second division of law, viz.,

"THINGS." In the Highlands, however, it is very different; they interfere with the first division, with which the other ought never for a moment to be compared in point of importance, viz., "PERSONS." Perhaps it is better for the people that they should be banished out of Scotland, and sent like the offscourings of our country to Canada. Perhaps it may be that we are rich enough already—that our industry has accomplished all that is desirable, and therefore, we have no need of the industrious portion of them,—and that we can well afford to receive the poor and the worn-out as paupers into the bye-lanes and alleys of our large towns, and therefore it matters not though the Celtic race should be extirpated from the Highlands. We certainly hope that Britain may never be engaged in continental wars as she has formerly been; but if she were, "that part of the United Kingdom called Scotland" could never furnish the quota of brave men it has hitherto done—neither in quantity nor in quality. If the soldiers' favourite, General David Stewart, were alive, we are sure he would not fail to testify to the truth of this statement. But we shall be told that we ought not to keep up Highlanders for the purpose of drawing levies of recruits from among them. Saxon, who asks you to "keep up" the Highlanders? Do we ask "protection" from you, as being unable to take care of ourselves? No, we disdain "protection,"—it is a cowardly name only assumed by lazy people who want to eat at their neighbours' expense. A sneaking, sycophantish spirit ill becomes the high-blooded Highlander; and for our own part, if our race could not be continued without it, we would be the first to obliterate the Celtic prefix of "Mac" from our name, and condescend to think ourselves of no more romantic origin than the Hughsons and Dobsons of the plain. We would be the first to burn our philabeg and all its gay accompaniments; but at present we see no great need for so doing. Let us have fair play, and we warn the Saxon to look out.

For the last fifty years there has been a battle raging over

the northern part of our island—that section which extends from the Grampians northwards,—a battle, not for a crown, not for some paltry vain-glorious name, but a fight of *extermination*. The parties engaged are the Highlanders on the one side, and the game on the other; and there can be no doubt but that the bestial party have at present the best of the day. They are supported by all the influence of the great, both in the Highlands and in the south. Moreover, they have what is called very erroneously “law” on their side, and some prostitute the sacred name of science, and say that such a power *accords* with the rights of private property! What sophistry! as if the right of Scotchmen to subsist in their native land must give way before the arrogant pretensions (too often assumed) of property! What a mockery! Tyrants in old times, and in some dark places yet, grind down the population directly; but in our free country they dare not attempt such conduct openly, their aggressions must be under the specious terms of law and justice, and the rights of private property, forsooth!

In a properly constituted state of things, the Highlanders would be exposed to a competition for existence in Scotland; if they did not work, and if they did not bestir themselves, it were quite right that the Saxon should bear in upon them. But besides this competition, they have all the odds against them, by virtue of the game law-rules. The soldier who has fought the battles of his country cannot obtain almost a house for money, and he feels himself alone in his native glen; now a desolate wilderness, as far as human beings are concerned; besides, as trade is ignored, he cannot obtain the necessaries of life except at a great ransom. But what has become of his father and brothers? The tale may be easily told: one of the brothers, a little more roving than the rest, shot a hare!—the old father could not turn him adrift on the world, and for harbouring the young man the whole family had to “lift,” bag and baggage, kith and kin, off they must go, and the small holding is forthwith given to another.

What a splendid state of matters ! Some may think we have coloured the picture too highly. No : we speak advisedly, and we can quote many examples in point.

It is very common to talk of the incurable laziness of the Celtic race ; and unfortunately the recent state of the population in some of the western islands gives some colour of truth to the remark. That degradation we shall neither attempt to palliate nor deny. Such calamities sometimes afflict Saxon as well as Celtic communities ; but we are proud to say that our district of the Highlands is free from any such taint. In former times, the Celt had to maintain his ground with the sword, it was the test, and those who could not use it could not maintain their ground, and of course must sink. Other days have dawned upon Scotland, and the sword is laid aside for a more useful weapon. In the interview between the Saxon and the Gael before the "combat," Roderick Dhu says the mountains might tell him—

" To you, as to your sires of yore,  
Belong the target and claymore !  
I give you shelter in my breast,  
Your own good blade must win the rest."

For the claymore and the target we must now substitute the less romantic instrument called the "plough." It must now win for the Highlander his bread, and he can handle it too. If the Celts were good swordsmen in old times, their descendants are equally good ploughmen in ours. It is no uncommon occurrence for the industrious peasant to gather a little gear in the Highlands, and then elbow out the Saxon from his richest fields. Come with us to one of Scotland's fairest scenes, where the rank wheat grows in the greatest quantity and luxuriance, and we will show you that the Highlanders reap no small share of the produce of these broad acres. Give them fair play with the ploughs, and let us see what can be done. We make no pretensions to be skilful judges of farming ; yet we will say, and we do so without fear of contradiction, that in all our travels we see no farming

equal to what is exhibited in our own native strath,—nowhere do we see more made of the natural capabilities,—nowhere do we see the land better cleaned or better stirred, and that too under numerous disadvantages.

Without any shame, and without any delicacy, we ask the Saxon to let us alone with our enemies. Disdaining protection for our race in this country, we have liberty to receive the proffered embraces of America, although even that was called in question sixty years ago. Saxon! we ask you not to throw the weight of your influence into the scale against us. Look at the pages of your own history, those stained with the blood of your countrymen, and say if Highlanders failed in their duty in former days. Where the fight was bloodiest—where the shock was heaviest, who was foremost then? Turn up the history of the wars in the present century, and then ask if the Highlanders have done ought worthy of your exterminating laws? Remember, a good friend costs nothing; some will yet be found to travel thirty miles if they think that by doing so they can benefit a friend: does it cost any thing to have such a friend—one who would stick fast in the hour of danger? And why trample down the Highlanders, whose love to their country is proverbially, we had almost said foolishly, strong? Campbell, with that attachment to his countrymen which characterises every Highlander, said of Lochiel's men—

“They are true to the last of their blood and their breath.”

Without exactly going so far as that, we would not hesitate to say that thin of population as the Highlands are now, compared to what they formerly were, they will be thinner still

“Ere we permit a foreign foe  
On British ground; to rally.”

We trust the Saxon will by and by see it to be his interest to put an end to the rapid expatriation of our Highlanders; they are surely more serviceable to him than roe-deer or hares. But to the Highlander who now possesses the right of franchise we would say in accents loud and clear, Do you love

not only the hills of the stormy north, but the kind hearts that find shelter there? Have you no remembrances of scenes long gone by?—of many who could stand by you in difficulty with a firmness that only a Highlander can feel? Then we ask you to abolish that recent imposition termed the “game-laws.” We demand that you shall not lend your aid by a single vote against your countrymen and friends; rather throw your influence into the scale on their behalf, than rank yourself against them in the combat. If you cannot assist your race in maintaining their ground against red-deer and grouse, do nothing against them—let them fight the battle of extermination without your interference against your friends. We hope some of you will speak out,—many of you are well able,—and we hope and trust that our race will not be banished from Scotland without an effort being made to stay the operating cause. Should the game-laws be sifted to the bottom, and the country agitated from north to south regarding them, then we hope to see some enthusiastic ardour brought out—for never had the Highland clans more need to see justice done to them. When the “combat thickens,” then we shall expect to see it proved to a demonstration that Highland heroism is not confined to battle-fields alone; that the fire which formerly stirred the sons of the north to deeds of daring is not yet quenched..

*An hour wi' Burns.*—The Ayrshire bard was a man possessed of a large heart, and he sympathised with the sufferings of his fellow-men. Scotland may well be proud of such a son as Robert Burns. He was a great poet; one of nature's own teaching, and besides, he was no mean philosopher too. It was very unfortunate for him, and no less for his country, that he was born at the time that he was, and that such a lamentable philosophy prevailed among those above him, and to whom he would naturally have shown respect. Few men ever loved their country more than he did, and he loved mankind in general. Cruelty of disposition was foreign to his nature, he never indulged in it towards those of his own

species, and he could by no means sympathise with those who inflicted torture upon brute animals. Methinks his fine feeling towards the lower creation was an emblem of the love he bore to his fellow-men. This tenderness to the inferior animals was in part a true reflection of the feelings and sympathies of his large and expansive soul. We find him thus addressing some waterfowl, under the alarm which his presence at Loch Turrit had occasioned:—

“ Conscious, *blushing for our race,*  
 Soon, too soon, your fears I trace;  
 Man, your proud usurping foe,  
 Would be lord of all below ;  
 Plumes himself in freedom's pride,  
*Tyrant stern to all beside.*”

Burns' address to a mouse is esteemed by competent judges as “one of the most exquisite of the poet's productions.” It showed in what direction the current of his feelings flowed, that he could not without pain contemplate the death of so insignificant a being as a field-mouse:—

“ I'm truly sorry man's dominion  
 Has broken nature's social union,  
 And justifies that ill opinion  
     Which makes thee startle  
 At me, thy poor earth-born companion  
     And fellow-mortal.”

The incident that suggested this poem is very interesting. The man who assisted him at the plough observed a field-mouse which he essayed to kill, but the bard checked him. The poet then “seemed to grow thoughtful, and during the remainder of the afternoon he spoke none. During the night he awoke his companion, and reading the poem, asked what he thought of the mouse *now.*”

It was no ordinary indignation that was roused in the poet's mind “on seeing a wounded hare limp by,” “which a *fellow* had just shot;” and so much was our bard annoyed, that he was nearly tempted to inflict personal chastisement upon the offender, and spoke of throwing him into the Nith. Such an outburst of feeling told of the currents of human kindness



that flowed within. The man who could thus sympathise with the sufferings of a wounded hare was not the man who could indulge in rancorous feelings to his own kind. Compare the bard's ideas on this subject with those of the vaunting sportsmen of our day; how they delight not in pure sport, but in the murders they commit! In old times, deer-hunting was a different amusement from what it now is. The hunter would watch days and nights to get a shot; now the poor animals are confined to a corner, and the butchering goes on at the rate of thirty-head per day. A friend of mine says there is no sport if you shoot more than three hares in a day; more than that is butchering—it is merely killing without excitement. He says he would as soon go to shoot a hen and chickens on the “midden-tap.” There can be no excitement in destroying defenceless animals—it is a cowardly affair, and those who indulge in it cannot have much “game” in themselves. It is like shooting a pet-lamb in a park. Burns stigmatised this disgraceful trade as a “barbarous art,” and he invoked no kindly blessings on the “murder-aiming eye.” The peasant-bard was no bowing sycophant at the feet of the great. He delighted in lashing them with his pen when their tyranny was felt by the “puir folk.” He was no flatterer of customs which happened to be fashionable, because patronised by the great ones of the land. In this he forms a beautiful contrast to many other gifted Scotchmen. He did not fail to take part with the wounded animals, mourning their hapless fate; neither was he ashamed to hold up to the ridicule of the world the “ruffian's aim” which inflicted unnecessary torture. Regarding the sports of the month of August, he says:—

“Avaunt, away! the cruel sway  
Tyrannic man's dominion;  
The sportsman's joy, the murd'ring cry,  
The flutt'ring gory pinion.”

If such were the feelings with which Scotia's own bard beheld the “barbarous art,” I trust none will be ashamed to

read the poems now quoted, and preach the good sense they contain to all whom they meet. Let them not be abashed in taking the side of the helpless sufferers against their cruel oppressors; and let such as delight in cruelty, and find their chief pleasure therein, know that Scotia's most gifted son denounced their "slaughtering guns," and that there are leal-hearted Scotchmen who are neither ashamed nor afraid to do so still!

## CONCLUSION.

HAVING at the outset brought forward our indictment, and in the last three chapters adduced proof in support of the different charges, let us now proceed to sum up the evidence, in order that the public—the jury in this cause—may be prepared to return their verdict. Let us now deduce the important lessons which a survey of the phenomena brought before us is calculated to afford, and no false delicacy ought to prevent us from denouncing the disastrous effects of those vicious PRINCIPLES, which have unhappily taken root in our minds, and which have got themselves insinuated into our laws.

We must again throw ourselves on the kind indulgence of the reader for having departed from the usual method of investigating political subjects. Unable of ourselves to understand the practical workings of any institution without becoming acquainted with the principles on which it is founded—with that living spirit which animates its dead letter, we have, at some little cost of reading and study, endeavoured to find out the grand fountainhead of those evils of which we all complain, and of which every one endeavours, or at least pretends, to effect a cure. We are quite aware that in the present state of literature such investigations are not calculated to please the public mind and to ensure popularity; yet if we shall be fortunate enough to obtain the good opinion of the discerning few, it will give us far more real satisfaction than applause from the many, who may know little of what lies underneath the surface. Those who write merely to cater to prevailing prejudices, must feel chagrined when popularity does not smile upon their efforts. Those again who study the essentials of things, and whose

only endeavour is to promote truth, are more concerned about the subjective matter than the objective reception it may meet with ; so that if public approbation be gained, all the better, but if not, they are not disappointed. The physicist dives into the laws of matter, and while engaged in his most profound investigations he never thinks of the reception which the public will give to his discoveries—he has quite enough to do without studying to please; and the question of how the votes for and against him will stand, probably never crosses his brain. He knows well that if he has been really successful, time only is wanted to render his discoveries appreciated and valued. And why should the student of political science go aside from his path to ask what the public will think, or ask if his investigations are likely to be applauded? Enough for him that he ascertains the absolute truth; and such an enterprise is, we aver, quite fatiguing enough of itself without making idle efforts to catch popular favour. Let him who makes the pursuit of truth his business for the time being rest contented with his work, but let him whose highest desire is to acquire ephemeral renown adopt the best means of securing it. Every man is bound to study science, particularly moral and relatively political science; and further, he is bound to disseminate those principles which he believes to be beneficial in their operation; but he is not bound to adopt as orthodox principles what may be universally thought sound, and he is bound to circulate only such principles as he conscientiously believes to be right, whether other men receive or reject them. Their conduct cannot alter an iota of truth, neither can they arrest the *results* of good or evil conduct, and therefore their opinion cannot in reality alter the case so far as the investigations are concerned; they may ignore and condemn the truth, but for that they are themselves answerable.

Those of our readers who are accustomed to the higher walks of the highest science, will not have had much difficulty in discerning that we are not students of the empirical

school; on the contrary, it must have been easily recognised that we are firm believers in Absolute Truth; and despite the learned discussion of Locke on Innate Ideas, in his profound Essay on the Human Understanding, we are bold enough to differ from him, great authority as he unquestionably is. We believe that there are laws for the regulation of every action, both social and individual; that there is an infallible standard by which they can be tested, and we believe that it is man's highest duty to search out that law, and yield obedience to its dictates; further, we believe that it is by so doing he will fulfil the highest purposes of his being, accomplish his loftiest destiny, and enjoy the greatest amount of happiness himself, as well as do the greatest amount of good to his neighbours. And this law is, after all, so plain that he who runneth may read: the machinery regulating the moral world (and consequent thereupon the physical) may be hidden; but it is only to those who search after it with subjective blindness, or who are timid enough to allow the objective barriers raised by ignorant, though well-meaning people, to hide it from their sight. Much learning is often a hindrance to the contemplation of natural law; at least it is so, when that learning arrogates to itself the right of placing its wisdom as superior to that of the law of nature. All the real wisdom that the political philosopher can acquire is simply to yield implicit obedience to its demands. The moment he presumes to set up his theories as better than its requirements, that moment does he perpetrate a lasting injury, and commit a great crime. The highest office that can be claimed for Political Economy as a science is only to branch out this great law and apply it to our social institutions. And so far from that science being based on Experience, or deriving its importance therefrom, it will be found compelling experience to pronounce a universal verdict in its favour,—declaring that its destiny is only to wait as an obedient servant, admitting that Action guided by truth must always be best, while Action based upon unsound principle must always be the worst. In

our social conduct, therefore, we ought to ask what is just and right, and not what will please best, or be most expedient; for what is right must be, by the sternest of all necessities, best and most expedient;\* what has been, what is, or what may be, cannot be infallible rules for our guidance. Every man is answerable for himself, and so is every generation. The darkness that benighted the men of former times can form no excuse for us to adopt their institutions if bad, or indorse their laws if not founded on the immutable basis of right.

And by what method can the mind understand this sensitive machinery, the slightest jarring of which is productive of much physical suffering? By what process can the indispensable lessons be deduced? Is it by reasoning from what is past, or guessing at what may be future? Assuredly not: the powers possessed by the highest human intellect are perhaps incapable of solving such a problem. And so long as investigators of moral phenomena continue to draw lessons inductively from Experience, Moral Philosophy and Political Economy will never be able to adduce satisfactory evidence of their claims to be put among the number of fixed sciences, or perhaps among the sciences at all. The physicist in search after the *what is*, having no starting point, must reason backward from ascertained facts; but the investigator of moral truth in search of the *what ought to be*, should first try to catch hold of the fundamental principle involved, and then he may, without great difficulty, trace the effects through many different events. The physicist's stronghold is to keep by the *à posteriori*, but the economist's is to grasp firmly the *à priori*; for the fact, that results must flow according to the observance of the principle, admits of all the certainty of

\* Justice is expediency, but it is expediency speaking by general maxims into which reason has concentrated the experience of mankind. Every general principle of justice is demonstrably expedient, and it is this utility alone that confers on it a moral obligation. . . . If by theory be meant inference from the moral nature and political state of man, then I assert that whatever such theory pronounces to be true, must be practicable, and that whatever on this subject is impracticable, must be false.—*Sir James Macintosh.*

mathematical demonstration. But although it ought to be our first care in reasoning on moral subjects to become masters of the argument *à priori*, yet is there any necessity for our contemning the *à posteriori*? By no means. On the contrary, even were the former method kept out of sight, it would supply the mind with such views of truth as would even confound the debater who knows nothing of the *à priori* method. He feels that he is hit with a fatal weapon, and yet he may not be aware of what it actually is. Reasoning *à posteriori* is so much in vogue at present, that there is seldom a satisfactory conclusion come to in controversies on moral truth. Adopting the *à priori* method would, however, lead to very different results.

The remains of ancient architecture are not more in existence than they were a thousand years ago; but sand and rubbish have so hidden them from human observation, that many mounds need to be excavated before they can be brought to light. And so it is with truth. It is the same as it has ever been, but it has been so long covered with sand and rubbish, that the labour of excavating is now considerable. It is a task much more arduous than the application of it when discovered. But in its absence men rear up structures, vainly attempting to supersede the pure original; and perhaps it is on this account that the investigation of moral truth has become so unfashionable and attended with so little success. For two hundred years physical science has been progressing with the most rapid strides, while it may well be doubted if moral science, instead of keeping pace with her sister, has not since that time retrograded. It may also be conjectured that it is on the same account that so many *cures* for political diseases have been attempted—some more likely to succeed than others, but all of them utterly futile for restoring health to the body social; and for this simple reason, that all the *CURES* that have been, or ever will be, devised can never *restore* health. As in the human body sound health can never be enjoyed by first *KILLING* and then *CURING*, so also is it in the

case of society ; so long as our legislation and ideas run counter to the laws of nature, as long must we suffer national evil. Many of the excellent schemes that have appeared with a remarkable fecundity of late years—ragged kirks and schools, peace societies, literary and industrial institutions, houses of refuge, means for the elevation of the working-classes, teetotal lectures, &c., &c.—however good they may be, are all **PALLIATIVES**—they may alleviate the evil, but they can do nothing to stay its onward progress, they do nothing to check the advance of the evil. These and such-like applications at best are but mere rose-watering the **EFFECTS**—the **CAUSES** are a step farther back and deeper down than many are at all aware of. When the tree begins to decay, any administration of relief to the leaves cannot stay the process of corruption,—a cure more substantial must be found. The institutions and ideas which we have been investigating are in themselves calculated to have *killing* effects upon society, and a careful examination of our experience will show that this is but too true. There are many, we are aware, that can treat these subjects with contempt, admitting that such are the results ; the evil does not appear to them to be *great*. But we appeal to those who study things more profoundly, that if these are evils, their disastrous effects must be great, albeit the superficial may not see them. The water does not sap the bank the less fatally, because shallow observers may not discover its operation. There are few sciences that have suffered more from the almost universal dominion of empiricism than that of Political Economy. Men, instead of inquiring after truth, have long been hunting after some theories of their own. They have been foolish enough to fancy that their experience must *make truth* ; and one of the most disastrous effects of this bad philosophy has been that the human creature has been contemned, and the dearest interests of the human family have been sacrificed at the shrine of productionism. We are not aware of any former epoch in the history of our race when this has been the case, at least to any extent, compared with the last sixty



years of the history of Britain. This philosophy is grossly immoral in its tendencies, and it is impossible that it could exist without causing evil, and that to an enormous extent. Mind has been declared by the solemn verdict of our legislature and our literature to be inferior to matter, and in Scotland particularly this erroneous idea has prevailed to an unexampled extent. Improvements affecting every other thing have been attempted, and the effort applauded; but any real or substantial improvements in the human race have been entirely overlooked; and Political Science, whose high prerogative it is to search into the best methods of increasing human happiness, has been prostituted to serve mere party purposes,—its advocates have been mostly of the lowest and most illiterate class of men, so much so, that the name of a politician is associated with feelings of the most disagreeable description.\* It is high time that a change for the better should take place, and that its investigations should be conducted with as much coolness as investigations into anatomy or any other science. It may be that prejudice, interest, and ignorance shall offer some obstruction to the diffusion of sound principle;† and although this may call for greater firmness and perseverance, yet it cannot afford any excuse for acerbity. It is now full time that every question in political science should be argued directly to and from the human race. Thus it has been customary to argue: the production of a country has increased so much for thirty years bygone—*ergo*, that must be a really

\* For example look to the civic representatives of some of the lower wards in towns. Sometimes the most ignorant and contemptible busybodies are elected to serve the public, but it is not too much to say that their motives are purely selfish—often those of the mercenary or vain-glorious kind. If they know the design of the institutions in which they act, they at least do not assist in accomplishing it. The *whisky* qualification seems to be the only one which many can boast of.

† Sir James Macintosh noticed the hostility which sound principle has to contend against. “Mechanics, because no passion or interest is concerned in the perpetuity of abuse, always yield to scientific improvement. Politics, for the contrary reason, always resist it.”—(*Vindica Gallicia*, p. 120, note.)

prosperous country. This reasoning is based upon the fallacy that *wealth* is necessarily *happiness*—that the two words are synonymous. Now there cannot be an assumption more false or more dangerous in its tendencies; and so long as it prevails, the real and substantial prosperity of the human race cannot be materially advanced. Every question, therefore, ought to be understood if not expressed thus—Does this increase, or does it decrease, human happiness? We have learned discussions about price and capital, capital and price, but to what purpose? All that can be said of them is, that the accumulation of wealth is good,—an assertion that must be received with considerable limitation. The worst part of the whole is, that parties actuated by sinister motives are successful in alluring us with the advantages of an increase of wealth, while they are themselves to reap the whole benefit thereof.\* The great manufacturer can point to the increase of machinery, and the thousands of yards of cloth that are being worn, and he can dilate upon the advantages of modern times as compared with ancient, yet will he argue that the white-faced operatives (whose industry creates the wealth) are so much more happy than their progenitors? Others can prate about the improvements of agriculture. Will they aver that the mean sum of human happiness in any district is now very much greater than formerly? It would be easier to prove that if distribution had been as much studied as production, the average of real prosperity over the whole would have stood much higher. Although we cannot at present enter upon a discussion of the question, we may note in passing that the laws of Distribution are as intimately connected with the prosperity of any given country as are those of Production. In other words, if distribution were better attended to, our country would be much more productive than it is at present. And the contemplation of the beautiful harmony that exists among all nature's laws is well calculated to ennoble the

\* Productionism does not really increase national wealth, but causes the wealth to CONCENTRATE in the hands of a few.

mind, to warm the heart, to teach lessons of the highest benevolence, and particularly it calls us to adore the supreme wisdom that has guided the Governor of the universe in making laws whose highest function it is to yield true happiness to mankind. God's laws can yield only good to man—man's laws only evil. God has decreed man's happiness—man only has decreed his own suffering. External nature seems equally adapted to minister to the comforts and enjoyments of mankind. With the application of a little industry, the earth yields abundant supplies to satisfy the wants of man and beast, and well might the All Wise pronounce his fair creation "very good." The earth is like the hanging gardens of the east, basking in the beneficent sunshine of Heaven's smiles, and every thing connected with it affords the highest satisfaction. It is only the corrupt passions of man let loose upon society that converts the fair garden into an abode of misery, and its inhabitants into a kennel of hungry wolves, each endeavouring to devour his neighbour.

When we consider the fruits of Adam Smith's Productive Philosophy, it calls up the most gloomy reflections. By it, Man, a moral, and consequently a responsible being, has been degraded to the level of a mere producing machine. And when we closely observe its operation on individuals, the evils that it creates are appalling. By it some men are held up to imitation, and as having accomplished the journey of life successfully, when they have accumulated a large sum of money. But are such men the brightest specimens of mankind? Have they obtained their envied pre-eminence by cultivating the better feelings of our nature? Or have they reached the golden summit by sacrificing the peace of their own mind? Or are they guiltless in regard to their neighbour—have they acted towards him as they ought to have done? Generally speaking, it is the grosser passions that are called into action in the accumulation of great fortunes. And too often it is the most worthless of men (judging by a correct standard), who attain to great riches; yet forsooth such men are held up

as bright specimens for the young to imitate, as having been very successful! Puffendorf stigmatises many such when he likens them to hogs—whose death people desire in order that they may have a feast. Productionism carried to the extent it has recently been, blights the sweetest buds of our nature. It dries up the joint oil which should enable the master and servant to work smoothly together—it promotes the vile and contemptible to high place, provided only that this increases wealth; while, on the contrary, it sneers at patriotism, and asks how much will its exercise put into the pocket—it scoffs at generosity, and inquires when will it enrich its possessor. Friendship, too, is consecrated at its altar, provided only that it cannot be enlisted into the service of mammon; and, in fact, all the generous sympathies, all that tends to render life pleasant and agreeable, must yield place to the viler passions,—those sordid and avaricious passions which prowl unmoled in human nature, and constitute its disgrace. Shall we be hindered from hoping that better days are at hand? Shall we sacrifice nothing in order that we may lend a helping hand, and do what lies in our power to speed forward the dawning of a better economy? How can we sit still and see such an evil spirit devouring unchallenged the very vitals of our country, and see men deluding themselves into the fatal error of supposing, that in providing for the mere material wants of their family their work is complete—they have done their duty! Production overstretched declares that the mere husk is of more importance than the grain—that the box containing the Koh-i-noor is far more deserving of protection than the brilliant gem itself. Productionism clearly teaches that the mere increase of goods which give comfort to the human race, is of more real value than the human race itself! How long shall our legislators and our literateurs be influenced by such a melancholy delusion? Although this pestilence walks in darkness, yet its wasting is seen at noonday.

It will be long before Political Economy can do as much good to our race as will counterbalance the evil it has wrought;

its highest achievement will now be to raise the masses by teaching a sound system of Distribution, and thus benefit those who have suffered so much from Productionism. It is not for a moment to be supposed, that although Adam Smith had never broached the theory of productionism, the means of life would not have improved since his era. On the contrary, we believe that but for the bad philosophy of his school, the country would have been actually richer than it is at present; for unless there had been an active interfering cause, distribution would naturally of itself have kept pace with production. Many of the branches of industry that are held up as being so productive, if rightly examined, would be seen as detracting from, rather than adding to, our national resources. Distribution now, therefore, demands the attention of every lover of true political science, and of every patriot; and from such a change there would doubtless accrue a greater amount of comfort and happiness to our people at large—a result which every well-thinking person must desiderate. When we consider the great importance of such inquiries, it must certainly increase our love for a purer political philosophy. Without Distribution, all the best efforts of physical science for the improvement of our race must be to a great extent counteracted. Astonishing efforts are now being put forth to extend the range of physical science. The construction of Lord Rosse's telescope forms an era in the history of astronomy. It would be well that a north-west passage could be discovered, or the north pole reached; it would be advantageous that the sources of the Nile were explored; but yet were all these, and many other and more wonderful discoveries made, the increase of human happiness resulting therefrom would hardly be perceptible. All that could be expected from them is, that some good would accrue *indirectly*; while the abstract sciences, on the other hand, when rightly conducted, exercise a direct and substantial effect on human happiness.\* Optimism, whose motto is, "Whatever

\* Is the limit of human wisdom to be estimated in the science of politics

is, is right," has the undoubted effect of shutting out light from the higher phases of humanity; it keeps the eye fixed upon what is low and grovelling in human nature; whereas if we could have our attention rivetted upon a high standard—were we to look at the perfect man, and endeavour to consider "what ought to be" only as "right," then such views would have the effect of stretching the mind, and of creating in it an insatiable desire for all that is morally right and practically good. Great obstacles there are, no doubt, to be encountered by those who only wish to see what is right acted upon; they will meet him at every corner, and almost threaten to stay the onward progress; yet if he fearlessly attack CAUSES whose evil effects are apparent, he will have a satisfaction pervading his own mind that gold can never purchase, besides he will see that what is right will sooner or later triumph. But granting that there are difficulties to be surmounted, and these neither few nor small, what daring hand shall fix the bounds of human happiness, and say, "Hitherto shalt thou come, and no further?" So long as wretchedness assumes every form, and enters every crevice, who shall hinder us from devising every thing that may circumscribe its dark and dread dominion?

Those whose lips give utterance to the dreadful words, the "Rights of Man," are shunned as plague-smitten. It is true that such an expression has often been used by parties of very questionable principles, but it would be folly for us to dissemble; enough has been stated in the foregoing pages to warrant enemies in saying that we are advocates of the rights of man,—and why not? The anti-slavery war-cry was, "Man alone by the extent of its present attainments? Is the most sublime and difficult of all arts, the improvement of the social order, the alleviation of the miseries of the civil condition of man, to be alone stationary amid the rapid progress of every other art, liberal and vulgar, to perfection? Sir J. Macintosh, so Malebranche—(Search after Truth)—says, "Whilst the mind examines all human sciences by the pure light of truth which enlightens it, we hesitate not to affirm that it will disesteem most of them, and set a greater price on that which teaches us to *know ourselves*, than on all the others put together."

above property;" ours is, "Man above land!" Yes, we do confess that we are wicked enough to believe that land was made for man, not man for the land. To begin a calculation of the relative values of them both would be fruitless—figures would fail us in stating the superiority of the one over the other; and yet who will deny that there is yet a great amount of British legislation which puts land and its rights above the rights of the human being? Farther, there is much in British legislation that puts the rights of the brute creation above the rights of man! Can history point to another such humiliation inflicted upon the human species? Despite the feelings of British landowners and British sportsmen, we can add the rights of land and the rights of game together, and, notwithstanding the ill-will it may create, we shall cry with David Hume, "Man for ever!" Such are the principles we hold—such are the principles we are desirous of disseminating; yes, until they find their way into British legislation.

The student of political science, after mastering those principles upon which it is based, will find little difficulty in tracing their workings in events; and he cannot fail to see the "inferior truths" of facts and dates fall in, not as the mere accidentals of history, but as a running commentary upon the principles which gave them being. But when the student begins to make himself acquainted with modern European statutes and customs, he will find many strange things, and which, at first sight, will appear unaccountable. Particularly will he find this to be the case in every statute connected with LAND. And if he be really desirous of seeing them in their true colours, he must trace them back in history for perhaps a thousand years. He must accustom himself to study society in countries where these peculiar institutions never took root, as in Greece and Rome, or some of the better governed States of the American Union. The immediate cause of that class of institutions he will find to be, that when the Roman empire was overthrown, the hordes of barbarians who pounced upon society from all quarters upturned

all constituted government and order. Plunder, rapine, and every kind of lawlessness prevailed, and the peasant had to place himself under the protection of a powerful baron, to shield his person and property from violence. Many gave up their lands to the church, and secured in return its sacred protection; others became slaves, preferring that terrible degradation to their former mode of life. Society must have been reduced to a low ebb when it had to accept of such terrible alternatives. At present there are no lawless banditti carrying, like a comet, fire and desolation in their path, and whatever reasons did formerly exist for this unhappy despotism, it must be confessed by all that these have long ago ceased to exist. What possible arguments can be brought forward to justify the continuance of such a plague to the human race? The peculiar relation of serf to baron gave a name to this system, from the former possessing the land he occupied in return for his personal services. Thus, "Feo" wages and "old" possession of land.\* It was also called the military system. It would be no unprofitable inquiry to trace out the influences which this system still exercises upon our laws, manners, speech, thoughts, and customs. There are few subjects which can be investigated that can throw so much light on our national progress. It will be found that feudal institutions have ever been attended with evil consequences to society; their grand aim being to exalt one man to an improper elevation and reduce all others proportionably low. These institutions could not be better characterised than they have been by one of the most profound lawyers of modern times,—*"THEY SPOIL,"* says Lord Brougham, *"ONE CLASS AND DEGRADE ALL OTHERS."*†

\* Lord Brougham.—It is a vulgar error, unsanctioned by authority, that the word feudal is derived from feud, a quarrel. It is no less a common error to confound the feudal system with clanism, two things very different, in general quite antipodal to one another.

† "The inferior order of men owed the recovery of their liberty to the decline of that aristocratical policy which lodged the most extensive power in the hands of a few members of the society, and depressed all the rest."  
—(*Robertson's Charles V.*, Note 20.)



The spirit of feudalism seems to have consisted in the barons considering themselves a superior class of beings; that they had a right to the services and good offices of king and people, and a right to trample upon both in return for their good-will. They seem to have considered themselves wholly irresponsible; and as law began to take root, which might have been expected to afford security for right against might, they possessed themselves of its authority, and thus gradually consolidated their usurpations. If "law be only a science when studied in its spirit and history," then must we trace out this wretched system of feudalism from its remotest beginnings\* fully to understand its genius, and we shall find its germs in the patriarchal or clannish system which prevailed in the primitive ages. These systems must never be confounded with one another, else confusion must ensue; and accordingly we shall now note some of the differences that so broadly distinguish the one from the other. The chief of a family, sept, or clan was destitute of the semblance of *power*, although possessing unbounded *influence* over his followers. He enjoyed his title and rank solely through their suffrage, and in peace he possessed no authority whatever. He could not perform any function of government without first obtaining the sanction of the old men, who had to be consulted on the most trifling emergency. In fact, there cannot be a better illustration of the patriarchal state than that which every family exhibits. A father or brother possesses no power over the rest, but the pre-eminence is allowed by tacit consent. This state of matters is very different from that of feudalism, for the baron did possess unlimited *power*. He was encased in steel, he rode always attended by a train of followers, and the peasant in a flat country had no alternative but to submit. Now, in the patriarchal regime, which generally flourished in rocky countries, the peasant could

\* "Law in particular becomes only a rational study, when it is traced historically, from its first rudiments among savages, through successive changes, to its highest improvements in a civilised society."—(*Lord Kames*.)

defend himself from assault, or he could retreat to a place of security, until the danger had passed. Under feudalism, society was degraded to little else than slavery; while under the patriarchal form of government each individual affected to assume a haughty independence and freedom amounting to licentiousness. Feudalism invariably promoted a despicable servility of manners which clanism repudiated, and the people boasted of the liberties they could afford to exercise in presence of their superiors.\* It is quite true that the clansmen would have died for their chief, and would have done any thing they could to have served him. It is this devotion to the chief that the barons coveted; and that part of it which was yielded *voluntarily* by the clansmen, the baron exacted *by force* from his vassals; hence the origin and spirit of feudalism.† They always looked at the services the clansmen yielded to the chief, forgetting all the while that his highest aim was to *exalt them* by every means in his power, and to promote their happiness as an integral part of his own. The patriarchal system was the most *popular* association that could ever be formed by men, while, on the other hand, the feudal was the most arbitrary and despotic which it was possible to devise. In the one, there was no legislative check to the individual action; in the other, there was no check to the baronial despotism, which reigned uncontrolled. It seems to be this same spirit that animates some modern institutions, for they can only be justified as being favourable

\* What a change has taken place in the Highlands of Scotland in regard to manners since the democratic clan system was broken up! Not many years ago, there was liberty for every one to act as he chose; equality, for all classes were on a level; and fraternity, for the chief was bound to shake hands and associate with every member of his family or clan. Now the case is so different that every one seems anxious to outstrip his neighbour in sycophancy.

† That the learned Dr Gilbert Stewart was of this opinion, we may gather from the following remark:—"These connections, and this subordination, followed the barbaric nations into their settlements. And here we may perceive the *foundations* of feudal association."—(*View of Society in Europe*, p. 26.)

to one class, and that the most useless to society. Can any other argument be put forth on behalf of those institutions which we have examined than simply this,—they were created “to please the laird?” That these class-laws were instituted for *public* benefit, is what we think would scarcely be said of them by their most sanguine supporters.

The baron, therefore, looking only to the one side of the question, fancied that he should be secured in all the devotion which the chief formerly enjoyed,—forgetting all the while that the chief was only a *representative*, holding his honours and appointments for *public* benefit, while the baron, on the other hand, insisted that all should be done for his personal advantage; he considered, or at least acted as if he considered, that he and he only was the state. It is full time that society should repudiate such dangerous dogmas, and banish the remains of them out of our ideas and our legislation. Even diluted as they now are, they can do nothing for good, but it is the nature of their functions to generate poisonous humours in the social body. From the slaying of these enemies of our race we can derive only unalloyed good—from their continuance we can only reap unmixed evil.

But although we have traced feudalism from its earliest beginnings, and shown its connection with existing abuses, yet the law-rules which we have examined are not directly feudal. Thus under the feudal government there could not be an entail law, it was in one respect contrary to its nature, so also are the feelings cherished towards population by the present barons. They are now using their utmost endeavours to banish the people, whereas it was the strength and pride of an ancient baron to be surrounded by a numerous band of followers. The baron could not have existed without a retinue formerly, for otherwise his estates would have been taken from him. In the Highlands especially, population *was encouraged to expand* by the fathers of the present lairds, whereas they now desire to be rid of the people as soon as possible. There must be something far amiss in our

country where population can be made a convenience of in this manner. The measles is not a dangerous disease of itself, but the dregs of it lingering in the constitution are most noxious, and methinks it is not feudalism altogether of which the laws before us are a part, but the dregs of that loathsome disease have got seated in the *organic* functions of government, and will be productive of ill health in the social frame until they are removed. And with purer laws we may expect purer social health to our country. We have reason to hope that the means of life would be better diffused through all classes, and thus a legion of other vices would be repelled, and the happiness of each individual materially increased. We ought to respect no class-laws which are contrary to the dictates of justice, and we should openly declare that feudalism is only fit for a dark age, and that legislation should view every man's property as alike sacred. For our own part, we shall assert that whatever charters the privileged classes may possess to the exclusive rents of the soil, they ought not to enjoy an exclusive right over BRITISH LEGISLATION.

ENTAIL.—If we except moral principles, there is perhaps nothing else that can affect the condition of the inhabitants of any country more than the economy relating to property in land, for it invariably gives a tone and character to their political and social condition. If it be bad, the people must suffer to a great extent in spite of their enterprise and industry. If it be good, the healthy arrangements affecting land must necessarily speed the country forward in the race of prosperity. Many examples could be adduced in illustration of this remark, and a little study must render it sufficiently clear to the most casual observer. God originally gave the earth to the children of men, and any law of man that deprives human kind of its blessings, is directly in contradiction to the gracious intentions of the Giver. When man thus puts his laws in opposition to the very nature of things, how can he expect the blessings of heaven? Can he hope for

prosperity when he adopts that course which unmistakeably leads to the degradation of the human species? Assuredly not. Accordingly we see that when the laws of any country exclude the human race from the benefits which its ownership confers, the population is degraded and virtually enslaved, and civilization forces its way rather in opposition to the legislative barriers put in its way, than assisted as it ought to be. By the laws of nature, land is patent to all; and it is only in such countries as our own, where a miserable oligarchy have framed and modified the public laws to suit their own interests and their own family pride, that such abortions as entail law-rules have been attempted.\* What advantage our country has secured to itself by overturning the humane arrangements of nature we shall endeavour to recapitulate.

Since the revolution of 1688 the landed interest has engrossed the powers of legislation, the small minority of the representatives of the people being outvoted invariably, especially previous to 1832; and that party has not failed to act on the atrocious maxim that the rights of the soil are better than the rights of the people. And what has been the main support of the anti-civilization party ever since the memorable revolution? Nothing else but the entail law-rules. But for them the trembling dominion of the barons, along with other remnants of feudal barbarism, would long ere this have been consigned to oblivion. And so long as one individual possesses the power of banishing some fifteen or

\* "So egregiously is this recent origin of titled nobility misconceived, that it has been even pretended to be necessary to the order and existence of society;—a narrow and arrogant bigotry, which would limit all political remark to the Gothic States of Europe, or establish general principles on events that occupy so short a period of history, and manners that have been adopted by so slender a portion of the human race. A titled nobility was equally unknown to the splendid monarchies of Asia, and to the manly simplicity of the ancient commonwealth. It arose from the peculiar circumstances of modern Europe, and yet its necessity is now erected on the basis of universal experience, as if these other and renowned and polished states were effaced from the records of history, and banished from the society of nations."—(*Sir James Macintosh.*)

twenty thousand human beings \* at the mere bidding of caprice, so long may we contend against other abuses in vain. In a proper state of government, no one man could have so much in his power. Aristocratic influence at the present moment exercises a baneful influence in the British Parliament, but if the entail-laws were broken up it would soon be at an end; and seeing that such influence exists not for the good of society, but as hostile thereto, its downfall cannot take place a moment too soon. If it could be argued that the aristocratic party act in all instances *for the public good*, and never for private benefit, something might be said on its behalf; but few, we should imagine, would so far forget themselves as make an assertion which so many facts go plainly to contradict. The present reformer who agitates against financial abuses, and other crying evils in our government, is only dealing with mere EFFECTS; for so long as men hold the unjust privileges which our landowners possess, it consists with depraved human nature that they should exercise these for their own especial benefit. From a careful examination of these subjects we rise impressed with the belief, that the first thing a patriotic reformer ought to do in present times is to direct his whole efforts against the corner-stone of all existing abuses—the stronghold of feudalism in the British constitution; and if these noxious entail-laws were once got rid of, the road would be clear to carry out all other healthful reforms in government. At one time the doctrine was held that the people were the servants of kings; that dogma, however, has been long discarded, and it is now universally acknowledged that kings are for the people, and not the people for kings. And are we to be told that the people are for the aristocracy? Such a doctrine existed when feudalism was in full strength, but it won't do now. No institution ought to be tolerated that does not acknowledge the people's

\* The Sutherland clearances are referred to. We have no means of knowing the numbers of that splendid peasantry that were banished, but we suppose the above is not far from the truth.

good as the prime object of its existence. It would be well if the spirit of Roman law were more generally diffused among our lawgivers—*vox populi suprema lex*.

From the extensive privileges enjoyed through many generations, our feudal aristocracy seem to fancy that they hold their position by divine right. They hold their appointments and honours without the consent of any person or authority at present existing, and they are answerable to no one for the use they make of their power. Their incomes are secured to them by laws as stringent as they could frame, when their party acted as they thought proper; and the fact that their splendid incomes must (as the law presently stands), go down intact to their latest posterity, fills them with such ideas of their own importance, that they think themselves specially favoured of heaven. And what have they or their ancestors done,\* besides, as a class, that they should be thus acknowledged as the PRIVILEGED CLASS? History and tradition can answer the question; and if the reader carefully examine the sources of this foul stream, he will differ from us if he do not rise with the conviction, that a feudal aristocracy has always been an evil genius to the human race. It appears to us wholly incapable of performing good to society, but ever active for repressing improvements in legislation. More especially, it prevents the rise of an aristocracy of MERIT; and the ancient blood

\* "The gentleman who has now passed before us has no claims from his own merit to distinction; he is possessed of neither abilities nor virtue. It is enough for him that one of his ancestors was possessed of these qualities two hundred years before him. There was a time, indeed, when his family deserved their title, but they long since degenerated; and his ancestors for more than a century have been more solicitous to keep up the breed of their dogs and horses than that of their children. This very nobleman, simple as he seems, is descended from a race of statesmen and heroes; but unluckily his great grandfather marrying a cook-maid, and she having a trifling passion for his lordship's groom, they somehow crossed the strain, and produced an heir, who took after his mother in his great love to good eating, and his father in a violent affection for horse flesh. These passions have for some generations passed on from father to son, and are now become the characteristics of the family, his present lordship being equally remarkable for his kitchen and table."—(*Goldsmith*.)

in the House of Lords affects to look with contempt upon the plebeian who obtains a seat there on account of the services he has performed to his country. No services of a progenitor, however great they may have been, ought to be a secure passport to nobility, especially if the descendant be notoriously unworthy of national honour.\*

The landed aristocracy possessing unbounded influence in government has been attended with most disastrous results, for they have uniformly secured government appointments to their own flatterers; sycophancy has been the test of appointment instead of merit. The question was not, Is the applicant qualified for such and such a vacancy? but, Can he secure influence with any nobleman, either through his factor, butler, or housemaid? The consequence of this patronage being exclusively concentrated in the hands of a feudal aristocracy, has created an incalculable amount of sycophancy† and servility among all classes in Scotland that is highly prejudicial to our happiness, as well as injurious to the resources of the nation, by its work being carried on by mere placemen instead of men whose industry and perseverance would have reflected honour on their appointment, and who would have discharged their duties in a more efficient manner. There can be no good purpose served by the church, the army, and the navy being continued as spawning-beds for the reception of the deposits of a feudal aristocracy. Were these institutions (which the public may reasonably enough expect to be allowed to act with unhampered movements) open to competition, much good to our nation would indisputably ensue,

\* "Go! if your ancient, but ignoble blood,  
Has crept through scoundrels ever since the flood—  
Go! and pretend your family is young; -  
Nor own your fathers have been fools so long.  
What can ennoble sots, or slaves, or cowards?  
Not all the blood of all the Howards."—(*Pope: Ethic Epistles.*)

† Goldsmith noticed this in his day, and a more caustic or pungent rebuke could not be imagined than that about the mushroom broth, double-distilled.—For an account of which see *Citizen of the World*, Letter xxxii.



and men would be taught to cultivate virtue instead of servility. The standard of merit would be raised, and the truth of the poet's line would be universally acknowledged—

“Act well your part, there all the honour lies.”—(*Pope*.)

Instead of men whose moral character is the worst being occasionally raised to the highest pinnacles of society, and receiving its highest honours, we would desiderate a better economy, when personal merit\* would receive its due reward, instead of being frowned upon by hereditary prejudice.

When we have denounced productionism in other parts of this volume, we did not intend by so doing to assert that all increase of national wealth is an evil; on the contrary, we hold that a real and healthy increase of the means of life is a blessing. There is a very broad distinction to be drawn between viewing wealth as the chief good, and using it properly in its own place. There may be an increase in national production which is undesirable, but on the other hand there may be an increase which every well-wisher to his country would like to see in great abundance, and that increase is from the fruits of the earth; for, we believe, there is no industrial occupation more beneficial to man, both in a moral and physical point of view, than that of reaping the fruits of the ground; but it seems at present impossible to carry on agricultural improvements in Scotland with the same vigour which other countries exhibit. And what is the reason of all this? Is it that Scotchmen are more lazy and indolent than others? Is it from the want of capital? We answer both of these questions in the negative, and assert that it is by reason of legislative interference that the wildernesses in Scotland lie unimproved. The land is in a great measure locked up as dead stock; and while the owners are unable of themselves to improve, they will not allow others to do it for

\* A king may confer titles, but it is personal merit alone that insures respect.—(*Goldsmith*.) This idea is differently expressed by Burns in the well-known lines—“A king can make a belted knight,” &c.

them.\* On the breaking up of feudal estates in other countries, it has been recorded that one-third of the estates yielded as much as the whole formerly did, and from personal experience we could predict astonishing results from loosening the fetters of entail. We could point to many large estates where the agricultural productions could be nearly doubled, and on the whole of them it would not be too much to expect that they would yield one-third more than they do at present.† Protector of national industry, do you hear that? Dr Chalmers‡ has eloquently exhibited the powers of the possessory feelings of human nature, and it accords with all experience that men will always do more for what belongs to themselves than they will do for what belongs to others. Particularly is this the case in regard to land, for it is foolish to expect people to lay out labour and capital from which others will reap the fruits. And we aver, that if Scotchmen could but possess a portion of the land of their native country, it would exert a magical influence upon their industrial habits—it would animate the expiring fires of patriotism, and cause them to have a regard to the prosperity of their country, which otherwise it would be unreasonable to expect. This is the case in any country, but particularly so in Scotland, where, as was wittily remarked by Sir Walter Scott, as soon as a man gets his head above water, he makes for the land.

Those who attempt to justify the provisions of entail, assert that our nobility have, by possessing land, a direct interest in

\* A proprietor holding an estate on which he cannot himself lay out capital, and which he does not bring into the market, that some capitalist may do so, is the dog watching over that manger which is useless to himself, and where he will not allow others to find food.—(*Burton*.)

† The writer of the account of Thurgaw goes so far as to say, that since the subdivision of feudal estates into peasant properties, it is not uncommon for a third or fourth part of an estate to produce as much grain, and support as many heads of cattle, as the whole estate did before.—(*Mill's Pol. Ecy.*, vol. i., p. 319.) Production seems to have increased at the rate of from 300 to 400 per cent.; our estimate for Scotland does not amount to a tenth part of that.

‡ Nat. Theology.

preserving national institutions. Granted; but if the land were open to one thousand, instead of to one, would the love of order not be multiplied accordingly? The question, however, is not properly put. It ought to be stated thus: Great masses of countrymen are declared by law to be unworthy of ever owning a part of their native country. Such people cannot, therefore, be expected, in the nature of things, to have as strong a regard for our institutions as they would naturally have had if left unmeddled with.\*

It is, we think, beyond all dispute, that the fetters of entail act as a hindrance to improvements. On many estates one might see this as he passes along; and, we believe, some have been purposely kept in bad order to provoke the next heir, on account of some differences betwixt the parties. It often happens that the family estate must go away out of the family, how, therefore, can a mere liferenter be expected to make permanent improvements? We know of many estates where the proprietor will not plant a tree, nor repair a stead-ing, but lays waste arable land. Who will deny that such a state of matters is highly injurious to our national prosperity?

We shall say nothing further about the poverty that characterises the owners of entailed estates, who, having lived a rough life before their predecessor dies, find themselves under a load of debt which they never can redeem; and so far from being able to do any thing in the way of improvement, they

\* An extensive farmer well known in the county of —— for his originality, thus delivered himself lately on the subject of the French invasion:—"What! me fight against Louis Napoleon? No, not I. *I pay rent for my land*—let them who own land fight for their own land. But hark ye, my lads! let the lairds beshot, and then I'll show what I can do, for then I would have a chance of getting some interest in the land myself." Formerly 60,000 knights held their land in England by service, for which they were liable to be called upon. Although there is some ground of truth in the farmer's remarks, that men cannot be expected to fight for land in which they have no interest, yet a correct knowledge of my native glen enables me to say that such sentiments would be utterly repudiated there—the rocks would not echo them. Enough that an invader is an enemy of our country, and many swords would be quickly drawn and wielded too by nervous arms!

have to leave the junior members unprovided for, and perhaps involve many families in inextricable pecuniary difficulties, who but for their extravagances would have been in easy circumstances. The only wonder is, that such a wicked remnant of feudal barbarism should be tolerated for a day in a country where such a boast is made about the improvements of modern times.

GAME.—It is very evident, from all we see around us, that the lower creation, or, in scriptural language, “the creatures,” are in subjection to man, and minister to his comfort. And although revelation had never commanded us to abstain from abusing them, yet common sense would have told us that benefits from the one side should not be repaid with cruelty from the other. And independently of the loss man sustains physically in alienating the lower creation from him, we have a high authority for saying that the exercise of cruelty to animals causes man to treat his own species with the same ill feeling.\*

Many are the schemes propounded for putting the game-laws upon a right basis, but no scheme devised by man can equal nature’s arrangement; and we have no hesitation in averring, that until these laws are put on the footing of nature’s method, they will be a lasting source of trouble and crime. But it may be again asked, Which is nature’s method? And to this we reply, that all animals, *feræ naturæ*, belong of right to the FINDER. This is determinable by the general principles of law; and, so far as we know, it has seldom or never been disputed. That such is the case, Lord Kaimes considers “extremely clear;”† and we have the authority of Erskine, that these animals belong to the finder “by necessity of law.” No lawyer who values his professional standing will argue, that animals, *feræ naturæ*, belong of right to the proprietor upon whose land they may be found. It may well be asked, What benefit has society to derive from breaking the laws of nature in reference to the wild animals? All

\* Sir Thos. More’s Utopia.

† Law Tracts.

the reply that can be given must amount to this, that the landed interest had at one time the power of making statutes, and the interested parties got laws enacted to suit themselves, although to the manifest injury of the public. The owners of land have, in this country, always been Roman patriots, and believe themselves the most disinterested individuals of the human family; they never thought, not they, of prostituting legislation to private advantage and to the public damage!

To such as boast so much of the enlightened spirit of British legislation, we would ask for an explanation of the following paradox:—*Law* declares game to belong to the finder,\* and a man appropriating what law declares to be *his own*, *law* punishes him most severely, even to the extent of imprisonment and banishment. It is a moral duty for a man to provide for himself and his family, and the appropriating feelings are strongly implanted in every man; but for so appropriating what *is his own* honestly and really, he may be incarcerated with felons in a prison, and have his character broken for life! Our statute law, instead of carrying out the spirit of the law of nature, runs counter to it, and what natural law proclaims a duty, our statute law denounces to be a heinous crime! Instead of multiplying crime and misery, it would be well if our legislation could do something to cure what already exists; but it seems as if there was not enough of real committed crimes in the country, when our legislators bestow such laudable efforts to manufacture fictitious ones. When a man seizes what does not of right belong to him, the voice of every right criminal law declares that act to be THEFT, but they know nothing of that modern sin called poaching. No special or statute law is necessary to convict a man of theft, and hence, if our lairds could show any good right they have to wild animals (to the exclusion of all others), it would be quite unnecessary for them to insist upon *statute law*. They do not require a special statute declaring

\* See decision in Supreme Court about 15th January 1853.

the fowls reared in their poultry-yards to belong to them, for this simple reason, that proof of ownership can be led. If our lairds are determined to rear wild-fowl specially and exclusively for their own use, they ought to enclose warrens, as was the case universally previous to 1800. Common justice would protect the animals so enclosed; but any further security is clearly inconsistent with the interests of society.

It may be well asked, What advantage does society reap from the game law-rules? And we reply that they not only prevent thousands of acres from being reclaimed from moor, but they cause thousands of fields, aye of farms, to be thrown waste that formerly yielded food for man. They likewise manage to retard the onward progress of agriculture; and this they accomplish so well, that a dozen of Highland and Agricultural Societies will not counteract their operations. These game law-rules are admirably adapted for destroying crops which nature seems to have provided for the sustenance of mankind; they virtually declare that whins and heather are far more serviceable to man than any quantity of wheat or mutton; and our legislators deserve great credit for the ingenuity they have displayed in keeping down our national prosperity *indirectly* (they would not have dared to do so openly). Thus our resources are dissipated, our best peasantry banished—all for what? Just that a few individuals in the community may have SPORT! Unfortunately for civilization, certain parties have got themselves into the position of legislators, and behold the result! If our proprietors are determined to shoot innocent and harmless animals, and are not contented with the scope that their poultry-yard affords, for our part they may have as much more as they please; but they shall not have our vote to keep up a corrupt legislation to enable them to extend their really amiable and kind feelings to the lower creation. There may be some brilliant exceptions; but, upon the whole, we have no hesitation in characterising the present sportsmen as the greatest poltroons which perhaps the world has ever seen!

The men who can take a fiendish delight in wantonly inflicting cruelty upon a harmless and innocent animal, are certainly not the men we would expect to repel an invader from our shores. Sportsmen of former days were men of some courage, for they courted personal danger in order to keep up the excitement, and they would have spurned at such a contemptible employment as shooting poultry; moreover, they would never have dreamed of calling such a childish amusement sport.

A few years ago, lairds were reckoned a superior race of beings, and it was common to hear such a conversation as this:—"How can you be guilty of swearing in that manner?" "Oh, I heard the laird say it." "But the laird is a gentleman, and you're only the son of a common man?" What was a sin with others, was thought nothing wrong if done by the laird. And this seems very much the case with our legislation in reference to cruelty to animals. If a poor man abuse and maim his unoffending beast, he is punishable by law; but, on the other hand, thousands upon thousands of birds and beasts are killed by sportsmen in the most cruel manner; and who can tell the number of those wounded, that are left to pine away their miserable existence? \* Yet all this cruelty, or at least the greater part, is perpetrated by law! for without its high sanction, game sports could not be practised to one-tenth of their present extent. Were man desirous of the light food which those animals generally called game afford, an excellent trade could be carried on among them; they could be provided at less price, particularly in the Highlands, and without inflicting a tenth part of that merciless suffering upon the brute creation which takes place at present. Some would have us believe that the regulations of the "close" season are most merciful, for it prevents the birds from being *shot* at hatching time; or rather preserves a greater number to be butchered or half-killed

\* Burns never showed himself more a man than when he threatened to throw "the fellow" into Nith, who had just wounded a hare.

when the "open" time arrives. Truly the tender mercies of the wicked are but cruelty!

Every man has a right to protect his property, say some, and, therefore, the trespass law-rules are good. We do not deny that every man is bound to take care of his land, as well as of every other kind of property; but we deny that these trespass acts enable him to do so. A farmer needs no special enactment to prevent games of football being played among his braided wheat; neither does a cottager require any to prevent people from making a thoroughfare of his garden. Common justice is quite willing and able to take care of these legitimate rights. It is true that if our population could not be trusted near a forest without setting fire to it, if they could not see a fence without trying to pull it down, if they took a delight in setting fire to every corn stack and farm steading, then there might be some colour or excuse for a trespass act, but not otherwise. Whenever any DAMAGE is done to a man's property, then the perpetrator ought to be punished according to the amount and nature of the crime; but what damage can the shooting of a hare do to the woods, fences, or crops of any landowner? The trespass acts are manifestly passed by our legislature for the purpose of consolidating those privileges which have been wrested unjustly from government, for the purpose of making game, which is common property, belong to a few favoured individuals. And we say again, without any fear of contradiction, that unless there was some improper object to be attained, special legislation would not have been necessary to secure landowners in the possession of their game by trespass law-rules. Common law is quite sufficient to ensure justice; but when any public privileges have to be plundered, special trespass laws must be made.

The farmers are the principal parties to blame for securing the continuance of these obnoxious statutes. It may be a small matter in their estimation to vote away the best interests of the nation at a Parliamentary election; but we never see



damage done to crops, or hear farmers complaining of the ravages done by game, without considering that these are evils for which they themselves are to blame and none others, not even the lairds. Farmers denounce game in every place except at a polling-booth, and it is somewhat pleasing to think that they themselves are the greatest sufferers from such ignoble conduct. Thanks to the patriots of '32, lairds cannot now obtain class-laws unless a large part of the constituency become traitors to their country (which, alas! is the case with most farmers at electioneering battles). The farmers, therefore, and none but the farmers, are the upholders of the game law-rules; for if farmers did not vote for them, they would beyond all question be put down by the city representatives. But were the farmers to whisper that such was their wish, our members of Parliament for counties would be the first to lead the assault; a mere frown from the farmers would make the whole fabric of game law-rules retreat into the darkest shades of central night. They have only to give the signal, as Roderick Dhu did to Fitz-James, and then adieu to the game-laws.

“Short space he stood, then waved his hand,  
 Down sank the disappearing band;  
 Each warrior vanish'd where he stood,  
 In broom, or bracken, heath, or wood;  
 Sank brand and spear and bended bow,  
 In osiers pale and copses low,  
 ~ It seem'd as if their mother earth  
 Had swallow'd up her warlike birth.”

What is to be said about the expense sustained by the nation in securing this excellent pastime to our lairds? What estimate can be made of the CRIME which they create? No idea can be formed of the thousands of peasants whom they have banished, of our national resources crippled, our agriculture depressed, our trade circumscribed, yet all these enormities are perpetrated under the sacred name of law! Electors, how long shall these things be done by your consent, or allowed to be continued by your apathy?

**HYPOTHEC.**—It is natural for mankind to look upon antiquity with awe and reverence. Such a feeling, when not carried to excess, or darkened with blindness, is good. An ancient edifice, displaying the genius of former architects, and the civilization of ancient times, commands respect. Such a feeling, however, ought not to be allowed to blind us to the defects of institutions; for this reason, that they are *active*, and must necessarily be attended with good or evil results. A custom introduced some two hundred years ago, and acted upon by the ablest judges that our country has produced, remaining yet unchallenged, may nevertheless be attended with evil consequences. Thus “Montesquieu, who at Paris reasoned as a philosopher of the eighteenth, was compelled to decide at Bordeaux as a magistrate of the fourteenth century.”\* Whatever proceeds from man, may well be reconsidered by man, because all men are liable to error. And this wholesome denial of the commandments and authority of fallible men will all the more prepare the mind for yielding implicit assent to the commandments of Him who cannot err. Let us then approach the review of law, albeit acknowledged such for two hundred years, without a blind or superstitious regard for antiquity; for whatever is right ought, on that account, to carry more weight than any arbitrary customs, however ancient.

For a long time it has been customary to use the phrase “*Law and Justice*,” thus putting contempt upon the gold, and exalting into honour the sand among which the rare and valuable metal may be found. Law is only the mere clothing of justice,—the case containing the valuables, not the valuables themselves. We hope, as “Improvement comes riding on the car of Time,” that our feelings will be altered; that our morality will be of a purer mould, and our very phraseology will be replete with such terms as justice and law. It is true, that the student who makes the investigation of law a means of obtaining a livelihood, may feel that it is his duty

\* *Vindiciæ Gallicæ.*

to ascertain the *what is* in legislation, but he is very differently situated from the economist who looks, or at least ought to look, to the justice of any given regulation. And should he find that any law is contrary, either in its letter or spirit, to justice, he ought immediately to condemn it, and denounce its evil tendencies.

Like the other institutions, this custom of hypothec is of feudal origin. Not that we can trace its existence through law when feudalism was rampant, but it arose from those false ideas prevalent at the breaking up of the feudal system, when property and its rights were esteemed of more importance than the industry that gave it value. The rights of hypothec (if any such there be) must always be distinguished from those of RETENTION, which are founded upon nature, and according to justice. Like every other right, it makes no difference although it has been usurped for a given length of time, or from time immemorial. If it cannot be shown to have a real right, prescription cannot afford it the shadow of a claim. The public apathy may not be sufficiently aroused to secure its overthrow, but with *that* the economist has nothing to do; his function is only to throw light upon institutions, or customary law, the parties more immediately interested ought to do the rest. There being, then, no basis in justice for hypothec (as we have endeavoured to show), we must view it, on the contrary, as an undue favour shown to the owners of landed property in direct opposition to the owners of movables. This iniquitous law declares that the *unproductives*, who merely dissipate the resources accumulated by industry, are more worthy of "protection" and of favour than those who are doing their best to increase the common stock. The rentowner who sells his lease for a given period, ought to have a lien upon the *fruits of the ground*, not for the value of these fruits calculated in cash; and if he be desirous of using his real right of retention, he ought to be compelled to do so before they are separated from the ground, or as soon thereafter as possible.

The right to retain certain fruits upon the ground has nothing whatever to do with any *money* claim—the actual FRUITS only are responsible for the rentowner's satisfaction; any further privilege, any favour shown by legislature or law, beyond the above, is inconsistent with the welfare of society, which it is the bounden duty of every one to preserve and promote.\*

If the rentowner, anxious to secure as high a price for a lease as possible, chooses to give the tenant CREDIT, no one can object to his doing so. It is his own concern, and his only; but suppose that he should agree to allow six months credit, or even one, two, or three years, as the case may be, how should he expect the legislature to secure his risks against those of every other creditor? We know not of one reason that could be adduced to support a claim so preposterous. But the very fact of such a breach of common sense being endured, demonstrates that the lairds are in this country a privileged class, and such ideas are not for the public advantage. No one can hinder the rentowner from selling his lease to the best advantage, and if he likes he can sell it for a single payment, an annual salary to be paid pre-hand, or two years after the crop is harvested; but he ought to feel that law cannot be prostituted to secure his interest alone, and that all it can do for him is to secure a share of the fruits of each season. The time was when those classes which wrought for their subsistence were contemned, and no one counted worthy of respect unless he owned landed property; but it is to be hoped that what still remains of such silly prejudices will speedily die away, and when such a consummation shall take place, our "law" will share the better economy too. Should favour be shown to a particular class of society, of all others Scottish lairds have least reason to expect such, considering the gigantic efforts they have put

\* "This is a fundamental law of nature, that every man ought as much as in him lies to preserve and promote society; that is, the welfare of mankind."—(*Puffendorf*.)

forth to rid the country of Scotchmen, and banish them from their native soil. Were our lairds less favoured by the legislature, they could not afford to sweep the country of its industry and worth. Disputes have been settled more by "law," or precedents, than justice ; but, if we mistake not, signs of a better state of matters are already beginning to appear.

Any one who closely examines the practical operation of hypothec, will have little difficulty in concluding that it is very hostile to the prosperity of agriculture; and considering that this is the most important branch of human industry, its disastrous effects are all the more to be avoided. It is a failing of human nature which inclines men to be grasping always at something they have not, instead of being contented with, and improving the capabilities of, what they already possess. This is particularly the case at the present time, when productionism is goading men on, and teaching them to consider an increase of mere materials as their chief good. So we find many, instead of farming the ground they already possess in a higher degree, preferring to grasp the ground occupied by their neighbour, and thus spreading their capital (quite limited enough for the former holding) over two farms; and hypothec unfortunately holds out the means of thus enabling them to gratify their illegitimate desires. Hypothec, therefore, causing capital to be withdrawn from farming, is highly injurious to our national production. At the same time, it causes the farmers to be the most decided enemies of each other; for, by withdrawing annually a large proportion of farms from the market, it leaves a proportionate number of farmers unprovided with farms; it multiplies the number of applicants for farms, and diminishing the supply, the PRICE is thus raised very considerably. To this may be ascribed the high rents that farms now fetch, notwithstanding the repeal of the corn-duties. Besides increasing the rents, and pinching the means of farmers, it places them on a lower footing than their respectability and worth entitle them to.

In fact, it is quite of a piece with feudalism, in placing the landowner higher up than he ought to be, and all others proportionably down. It seems strange that rentowners exercise the power of putting men out of a district, not for want of industry, but when they are not in every other thing quite submissive to the powers that be. This is not the case in trade; for so long as a man can purchase whatever the laird has to dispose of, and offers the best terms, nothing else is ever thought of. The laird has not so many merchants to cut and carve upon as he has farmers, and consequently he values them by their industry, not by their sycophancy. It would be well for the country if the demand for farms were not so great, because a man would then calculate that industry would be the best method of securing a farm, and he would not have to beg as a favour what he is best entitled to from his industry. When the laird sells land, minerals, timber, and agricultural stock, he never whispers to the purchasers that they will forfeit his goodwill unless they vote according to his pleasure, or become members of any given church. No, it is *money* he looks to; and were he to give a hint about any other stipulation, his advances would be laughed at. Why should this not be the case in his intercourse with farmers? We know of no good reason why farmers should be less independent than their neighbours. That the regulations of hypothec enable lairds (the unproductives) to abstract from the common funds more than their own legitimate share, we hold to be a fatal objection to them. By such irregularities being tolerated, the struggle for individual subsistence is rendered much greater. We believe that at no former period has competition ever been keener, and more exertions needed to keep people in that rank which they think impossible to be without. Man was told that he was to provide food for himself by the sweat of his brow, but at present the sweat of the whole body seems indispensable. If the unproductive classes of society received less, it would render labour much less oppressive, and better provided for,

—results which it is impossible for the economists to overestimate in importance.

Another serious objection to hypothec is the influence it has in displacing population. This dislocating of the relations of society we hold to be most noxious; and great as the other objections to hypothec undoubtedly are, we hold this to be more virulent than all of them put together. It puts an instrument in the hands of a laird that he ought never to have; for if he deals harshly with a respectable farmer, and thrusts him off his property on account of some whimsical notion, it is but right and reasonable that he himself should suffer in consequence, which is not the case at present. Having already enlarged on the evil effects of depriving country districts of their inhabitants, and thrusting them into towns, we see no call for saying more on this branch of our subject here.

The power that a laird enjoys of seizing implements of husbandry, and other effects, for rent, is what cannot be justified by any course of reasoning whatever. The excluding of other creditors from any dividend of a farmer's effects we hold to be quite unjust, and it manifests such a contempt for trade as is worthy of the dark ages, when hypothec was invented, and which is not likely to survive for many generations. But that regulation which enables a landowner to rob or plunder the purchaser of grain, openly bought and honestly paid for, is (considering that this is the principal resource he has for obtaining cash) a piece of barbarism that casts an open disgrace upon the name of law. It would have affronted the barbarous Goths, and it would certainly have been repudiated by the ruthless Huns.

THE PEASANTRY.—“No man,” says Lieber,\* “can improve unless he reflect seriously on his past life; and so it is with nations, with mankind.” Although protection has been renounced by Parliament since the first chapters of this volume were written out, and although there is hardly a possibility

\* Political Ethics.

of the corn-duties being reimposed, yet the principle of protectionism being still an element in our existing institutions, we can see no harm in asking what has been the results which have flowed from these laws upon society in this country; and a close examination of the united operations of the class-laws which we have denounced will show "that bad laws, if persisted in for a series of years, will degrade any society." And it will be observed that the first class who feel the injuries of the laws relating to land is that of the peasantry, and secondly all the other classes in the country. Another twenty years of the same economy that Scotland has endured for the last thirty years would, we are sure, totally destroy our peasantry, and then Scotland would be over with it; and we have no hesitation in affirming, that if England had been guilty of the same suicidal policy, the British empire would have been by this time overthrown. English landowners have, however, some sparks of patriotism; they possess some humane feelings for their race: would that we could say as much on behalf of Scottish lairds! Englishmen have fondly cherished their peasantry; and they emulate each other in making the cottage homes as comfortable as possible. Scottish lairds, on the other hand, have done every thing in their power to oppress our peasantry, and render their lot as uncomfortable as possible. What have they done, as a class, to improve the cottar houses? How many landowners in Scotland care whether the cottagers have houses or not? The only wish they have regarding them is to banish them out of the country. If our Scottish lairds had thirty years ago met and concocted plans for the thorough and effectual ruin of Scotland, we are sure that malignity itself could not have put them upon a more successful scheme. Large farmers and factors have been their helpmates in this black design; but we are sure that if it be persisted in still, the lairds themselves will *very soon* feel the cost of their doings; the ruin which they have invoked will not enter every door and pass by theirs. Upon the first overturning of order, the lairds



will be the first to be attacked. And if the dangerous classes ever get the upper hand in Scotland, if pauperism and crime threaten to destroy the earnings of industry, then posterity will infallibly lay the blame of such outrages at the door of the Scottish lairds of the nineteenth century ; for they opened it with a peasantry the most moral, and what is more, actuated with feelings of the most intense respect for the upper classes ; and what account can they give of their stewardship ? Only this,—that they have banished the best affected and most industrious of them to Canada and Australia, and they have swept the most indolent and debased into our large towns, to form centres of pauperism and hotbeds of crime. If they had sent the *whole* of the outed peasantry across the seas, there could not be so much fault found ; but why only send the best—those possessed of capital in labour and cash ? It has been well remarked, that if the Crown had perpetrated such acts of tyranny, there would have been a loud noise, if not an open rebellion. Another of the glorious advantages that our present policy has secured for us is the *Bothy System*—a system that it would be impossible to denounce in language too severe. Our present lairds may affect patriotism, but it is not of the Roman stamp, for it consisted in men loving the people of their country, ours consists in degrading them as much as possible, and such, after all, is protection to native industry !

On looking over the history of our own country, as well as of others, we can see a close relationship existing between rural depopulation and overcrowding the towns. These two phenomena are linked inseparably together as cause and effect. And although many in our day who sit in high places regard the unexampled increase of population and wealth in towns as great prosperity, yet we nevertheless declare that a closer examination must lead to a very different conclusion. To those like Sismondi, who have studied the rise and decline of empires, the loss of any country's peasantry and the increase of disaffected inhabitants in large towns, are

fatal symptoms in the history of a nation; they are the undoubted precursors of national ruin.\* It would barely be possible to conceive two cases more analogous than that presented by the Roman empire before its final overthrow, and that presented by Scotland at the present moment. But we hope that better times are in store for us; we hope that the days of that ruinous philosophy are numbered† which places the prosperity of nations and individuals in the acquisition of wealth, confining our ideas wholly to the sensuous and materialistic,—a philosophy contrary to the whole spirit and letter of Scripture, and repugnant to common sense.

From the repeal of the corn-duties, we expect that a great amount of oppression will be taken from off the shoulders of the "country party." We doubt not that when a politician at some future time notes the progress in British industry in agriculture, he will discover a sure but steady improvement, commencing with the date of repeal of these class-laws; for one of their most disastrous effects was the *depression* of agriculture, and instead of increasing the growth of corn, they laid a heavy incubus upon its production. In fact, if the corn-duties had continued along with other obnoxious laws yet unrepealed, the greater part of Scotland would have been

\* Might we be excused for again quoting Goldsmith, whose poem seems descriptive of scenes like those Scotland now exhibits—

"While scourged by famine from the smiling land,  
The mournful peasant leads his humble band;  
And while he sinks, without one arm to save,  
The country blooms—a garden and a grave."

The poet seems to have had no admiration of those who

"Indignant spurn the cottage from the green."

Had he lived to see the country "to sickly greatness grown," he could not have depicted it better than he has done. How applicable to some of our large towns are his words—

"A bloated mass of rank, unwieldy woe!"

† The following is from a high authority:—"Ever since the days of Adam Smith we have been seeking to promote a great abstraction, which we call national wealth; and in looking to it, we forget that to which it is a mere stepping-stone—national happiness and national virtue."—(*Dr M'Cosh: Method of Divine Government.*)

soon a wilderness. Corn will not grow of its own accord; and should we continue to oppress and banish industry, we shall know that experimentally. The system of large farming has only to be pushed to extremity to sweep away the remains of our once splendid and happy peasantry; but when that is fully accomplished, where are the hands to come from to sow or reap the grain? In vain would we ask people brought up in towns to do so; they are unwilling to engage in such work, and would come but poor speed though willing. And then who is to feed the terrible number of paupers that would be created by the further extension of large farms? It cannot be denied that the separating of poor people from their holdings is invariably attended with an increase of pauperism; while, on the other hand, the holding of a farm, however small, has a most healthful effect on the habits of the people.\* The Scottish peasantry have always been remarkable for frugality; their well-earned savings deposited in the nearest branch-bank prevented them from being subject to the greatest of earthly calamities—the poor's roll. Now the same people placed in a town could not prevent their families from being brought up in the same habits of extravagance that their neighbours indulge in. In towns, the wages are dissipated as soon as earned, not upon the necessaries but upon the luxuries of life. It would be interesting to follow the purchases of £100 paid in Glasgow for wages, and compare the purposes to which a similar sum would be applied when paid to cottar folk. The amount spent in Glasgow on spirits would have no counterpart in the country, but the country people would be found to have a greater per centage deposited to their credit at the bank. Every one will admit that open-air labour is best for the

\* Luxury, avarice, injustice, violence, and ambition, take up their ordinary residence in populous cities; while the hard and laborious life of the husbandman will not admit of these vices. The honest farmer lives in a wise and happy state, which inclines him to justice, temperance, sobriety, sincerity, and every virtue that can dignify human nature.—(*Dr Johnson.*)

health of the body,\* and indirectly upon the mind; but there is more than that, the intercourse of mind with the works of God instead of the works of man, refreshes and invigorates our mental faculties, and renders them more able for carrying man to his higher destinies.

It is a fashionable doctrine of the present day † to consider country people only as caterers for the wants of dwellers in towns; and strange to say, the prevalence of such logomachy is highly injurious to the peasantry, for it helps to promote that piece of buffoonery, viz., the superiority of large farms. Many are now getting their eyes opened to see the true state of matters. And if Scotland is to maintain even her present standing, such humbug must be put down. Preaching the superior productiveness of large farms may do very well to amuse the inhabitants of Loo Choo, but we have great confidence that such sophistry will be very speedily banished from our country. Instead of a country life and rural employments being spurned by the sages of antiquity, they were highly applauded. Poets, philosophers, warriors, and kings emulated each other in rendering service to agriculture; and although the remains of Gothism treat with studied contempt every other employment but horse-racing and hare-shooting, yet better times are appearing, for the great and good are casting off feudalistic prejudices, and setting a good example by encouraging industry. It may be that in removing three families out of the country, and giving their land to one, a great "saving" is effected,‡ but who reaps the whole of it?

\* "The improvement of the ground is the most natural obtaining of riches, for it is our great mother's blessing, the earth, but it is slow; and yet, when men of great wealth do stoop to husbandry, it multiplieth riches exceedingly."—(*Bacon.*)

† Among others, a certain clergyman embraced the popular theory, and on visiting a sick man, he inquired his former history. He was told that he had been a farmer, but, like hundreds more, he had been put out of his place. But says the minister, "If you put four farms into one, does not that save three families?" "No doubt of it," replied the sick man. "And if you put four parishes into one, does that not *save* three ministers?"

‡ See a late number of *North British Review*.

The lairds reap the benefit, while *society sustains all the loss*. The earth was not given to man to be "saved," it was given for his use and for his home; and if our modern theorists would get the whole country cleared of its worthy dwellers, where would be the saving? The sight of Italian plains after being cleared of the ancient Romans, would have given our patriots real delight—it would have exactly come up to their beau ideal of a right country. Much of a piece with the foregoing is that cure for present evils, emigration. It is true that the extradition of labour may give a relief to the pressure on the labour market, but it is of the most ephemeral description. And yet the idea of such emigration being beneficial to the country's strength is certainly very ingenious. It would be a new method of adding to the physical strength of men were we to amputate their toes, or their fingers, or their right arms. To banish our most industrious tradesmen, our sinews in fact, and yet add to our national effectiveness, appears to us paradoxical. We do not blame the industrious classes for emigration, *but we certainly deprecate the necessity that causes them to leave home for the improvement of their condition*. Such has been our aim in dwelling so fully upon, and exposing the laws which undoubtedly lead to such an unenviable state of matters. We are certain that if the laws which have been condemned in this volume were put to the line of justice, the condition of industrious people at home would be much improved. It would be a great advantage to us if labour were better rewarded—if less of the national production were dissipated by the UNPRODUCTIVES—by the drones of the hive, and more of it by the PRODUCTIVES—the bees that gather the honey. In other words, it would be well for our country if the lairds got less and the labourers more.\* The great efforts that must

\* "We cannot bid adieu to our argument, without making the strenuous avowal, that all our wishes, and all our partialities, are on the side of the common people. We should rejoice in a larger secondary, and a smaller disposable population, or, which is tantamount to this, in higher wages to the labourers, and lower rents to the landlords. . . . Next, to the salvation of their souls, one of our fondest aspirations in behalf of the general

needs be made to secure a living in this country, the temptations to be guilty of questionable means to obtain it, are, we hold, inconsistent with a good state of political association. To be plainer still, it would argue a better condition of society, if our artisans in cities, and our agricultural labourers in the country, had to work shorter hours, and be better fed than they are at present. We hold it to be a great desideratum that rents should fall in price, and that wages should rise. But are we to enact laws for the purpose of robbing lairds of their rents, or of depriving them of their just rights? No; we are not socialists, nor never will be, although we think nevertheless that the working classes are as well entitled to enact such laws as would rob the upper classes, as the upper classes are to pass laws for their own benefit to the loss of the other classes.\* Both invasions, the upper classes on the lower, and the lower classes on the upper, can only be justified by the same reasoning,—viz., might over right. Our present position then is this: the upper classes—barons and lairds, *de facto*—did in former times get unjust laws enacted, therefore they ought to be repealed with all convenient speed. It is much better to have justice laid to the line, than judgment laid to the plummet,—a result that must take place when injustice is carried to excess. There are many fond of speculating as to our future prosperity as a nation, and to such we would say, if you have any love to Scotland, and wish that it should prosper, banish not the peasantry from their homes. The working classes may be likened to the base, upon which the middle orders are built, and upon these again the higher grades rest. Now by disarranging the *base*, the whole building must necessarily be insecure; and there can be no doubt, that if the lower orders in Britain were more comfortable and were more moral, the happiness of the other two orders would be most materially augmented.

peasantry is, that they shall be admitted to a larger share of this world's abundance than now falls to their lot.'—(*Dr Chalmers's Pol. Econ.*, p. 437.)

\* Laws grind the poor, and rich men rule the law.—(*Goldsmith*.)

The disorders or diseases consequent upon the prevalence of feudalism in our legislature have broken out in the low grounds and flat parts of Scotland in that hideous excrescence on our social frame known by the name of the bothy system, which must effectually prevent any locality tainted with it from claiming to be a civilised district. The details of savage life in the South Sea Islands cannot be more revolting than the description of Scotch life in a carse bothy. It may well claim a relationship to slavery in the southern states of America. It is a hotbed of crime and vice in every shape, and the human animal is degraded to a condition to which the history of Scotland fortunately affords no parallel. A patriotic and liberal nobleman\* states that the large farmer cares more for his cattle or his horses than he does for the ploughmen in a bothy! And the statement can be supported by abundant evidence. It is a system which every man with a well-constituted mind, and who entertains a regard for the welfare of his country, holds in utter abhorrence.† The habits that formerly and still prevail in bothies, are of the most filthy description that it is possible to conceive. We have no wish to expose Scotland to ridicule, but if our statements are called in question, we are in possession of information that would astonish most people. As for profanity, it has never reached such a height in the world (so far as we know), as it has done in the rural districts of Scotland. Scotland has the unenvied distinction of first reducing profanity to a science.‡ Alas, for moral Scotland! And this

\* Lord Kinnaird.

† We know a large farmer who has risen from being a ploughman by his own industry, and he denounces the bothy system with a vehemence that natural eloquence only can supply. When a young man of fifteen, he had to master every man in the bothy before he could obtain any peace; and the details he gives of what he has come through are horrible. He says, if he had three sons, without better employment, before allowing any of them to enter a bothy, he would take them to the nearest recruiting sergeant! The peasant-youth of Scotland have a dismal prospect before them: Hard work for some fifteen years and ruin ever after.

‡ It is no uncommon employment for bothy men to spend evenings in

too on the very ground where cottar worth, morality, and religion (so pathetically depicted by Burns and Nicoll) found a home! If we have agricultural improvement, we have what ten times counterbalances it—agricultural demoralization! Besides keeping down our agricultural productions, thrusting our peasantry from their homes, and overcrowding our towns, the bothy system is another of the advantages we derive from our breaking the laws of nature, for under a healthy state of political association such things could not be. Our fervent prayer is, that a more humane and real improvement may soon come into the rural districts of Scotland.

Although in the Lowlands the process of expelling the peasantry is not so apparent as in the Highlands, yet there is a sure and steady system at work, that will tell a tale by and by. Patriotism has ever flourished in the rural districts, and if the avarice and effeminacy which flourish in towns should succeed in carrying our nation down to posterity, it will be the first example the world has ever seen. When we see selfishness accomplishing greater achievements for the good of society, or for the protection of order from enemies within our pale, and repelling invaders from our shores, we shall then believe, but not till then. When love of country is gone (and in Scotland that crisis is fast approaching), mere mercenaries will never fight so true to their country as those who do so from patriotism. We would be much safer to trust to the “unbought loyalty of men, the cheap defence of nations.” The peasant who enters the army feels he has a home to fight for—he has a character to lose, and this was particularly the case in the Highlands, where the recruits came out of farmers’ families, and their feelings of independence and love of country were much stronger than that of men, who were only the sons of those who have always been

the horrid employment of inventing oaths! To such an extent is this carried, that the men frequently are afraid to move from their seats, or to close their eyes in slumber; and the recollections of such employments haunt their thoughts ever after like a midnight phantom.



in servitude. At the present rate of depopulation, the Highlands must soon be one vast wilderness, and although their numbers were never great in the British army, yet we aver that one-tenth of the men that fought in the last war could not be got from the Highlands. Many of the smaller glens are totally cleared, and any of the peasantry remaining do not calculate that they can obtain a home for many years longer. Glencoe, the Black Mount, and Lochtayside, where the Campbells flourished, are swept; and although no difficulty was experienced by the late Marquess of Breadalbane in raising three battalions of fencibles at the last war, we are sure that 150 men could not now be obtained. Glengarry raised 1000 men, and the same estates now could not probably muster 50. The Braes of Lochaber, where the warlike and brave M'Donalds of Keppoch formerly flourished, are now almost bereft of inhabitants. Glentilt, where some 600 people found a home formerly, is now guarded by the family of a shepherd. The late Duke of Gordon raised the 92nd regiment principally from his own estates—men whose conduct was always characterised by the most indomitable bravery; and on one occasion the historian of the Peninsular war says, they would have “graced Thermopylæ.” What could the present illustrious nobleman who owns these estates do? He claims the laurels of patriotism for being one of the greatest “protectors to native industry” that we can boast of; but time, that severe analyser of character, will have little difficulty in declaring the difference between Roman patriotism and arch-knavery.\* Sweeping an estate of its industrious cultivators is a modern method of improvement; half a century only is needed for it to accomplish its evil destiny. The Sutherland clearances are a standing disgrace to Britain, and they have been exhibited in their true light by foreign his-

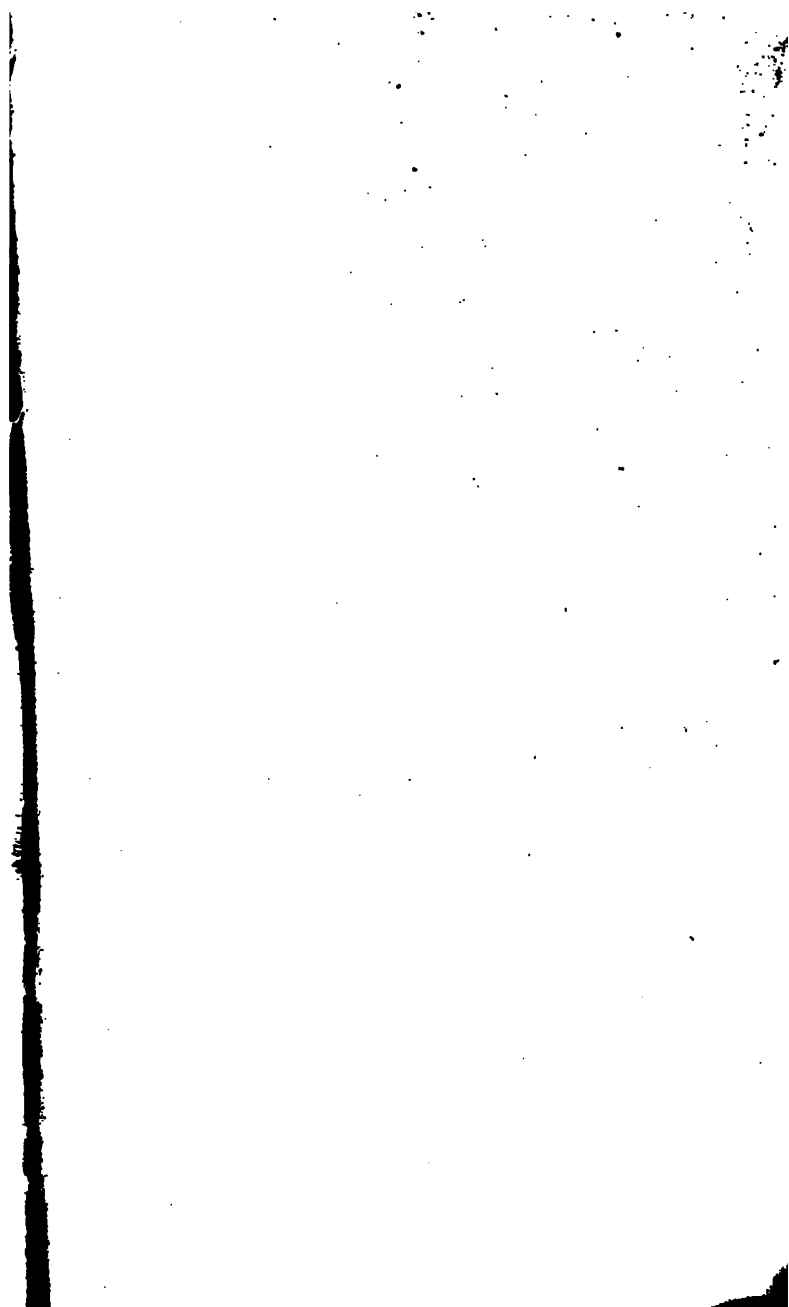
\* As these extensive estates were being cleared, the people got refuge on the property of the Earl of Fife, and he is represented as having sent a message to the great clearer, asking him not to put out the people faster than he could make room for them.

torians. Any increase of gold can never make up for such a loss of inhabitants. Had the Highlanders been pushed out by more industrious cultivators, we should have been dumb in their defence. ~~But to think of the bravest and most patriotic of the Scottish peasantry being banished by legislation, although indirect, is deplorable.\*~~ It is a strange plan of modern times that the brute creation are pampered and caressed, while the human race is crushed and oppressed. It may be that the Highlanders are unworthy of a home in Caledonia; it may be that that unconquerable bravery is now unnecessary which they have always displayed in the country's hour of darkest danger, and their services may now be sneered at; but history shall ever point to their valorous achievements, and from an intimate acquaintance with their feelings, we can declare that no subjects in the British dominions would sooner shed their blood in their country's cause, or in defence of our present

\* The following excerpt is taken at random from a highly respectable local paper, and contains the latest news, the date being March 1853. The writer of the article, termed a "Rural Scene," in describing the pernicious effect of game-laws, speaks of "poachers reaping a rich harvest, while the farmer is so bound down by restrictory clauses, that his turnips and garden vegetables are eaten before his eyes, the others getting all the benefit from 'the illegal traffic.'" "It requires but little science," he says, "to foresee that in a few years in one district, to wit, Glenshee, the human species must give way to the antlered denizens of the forest. Braemar is already one vast game preserve; Glenshee is, or will soon be, pastured betwixt sheep and deer; Blackwater is all under grass; and the few spots that are under tillage, with a few honourable exceptions, are all rack rented. These remarks more or less apply to the whole parish. Small farms are grouped together; if they are improvable, they are let; if haugh, they are pastured and let. An exterminating process is silently going on among cottars and crofters, and in numbers of instances to their own advantage. These combined influences are drifting our population *portwards*, and rural society is rolling like mountain boulders, agitated by the action of diluvial currents, towards the auriferous isles of the antarctic circle. As therefore may be guessed, our population has decreased in the ratio of thirty per cent. during the last ten years. Cottar houses being difficult to get, and farms unattainable, have proved pernicious to the morals of the parish. . . . The bastard progeny are quite equal, if not more numerous than those born in lawful wedlock, arising generally from those social defects in our residential system hinted above."

sovereign, whom they love with an ardour greater than they bore even to "Charlie." If the Highlanders be inferior, we know of no superiors; and of a verity their inferiority was never proved on a battlefield. At the storming of Fontenoy the Highlanders fought bravely,—their gallantry at Quebec is well known; the Forty-second were more than a match for the Invincibles in Egypt, whose colours Sergeant Sinclair carried off; their storming of the redoubts of Toulouse, led on by Campbell, excited the warmest applause of the British army. The services of the "gallant Ninety-twa" are written in the annals of many a bloody field. But although the Highlanders are few, they are yet as brave as ever; and if Louis Napoleon were to come across the straits, he would undoubtedly find that there are yet "sour slaes," as Burns sung, on "Athole's braes." And yet such are the men on whom the game law-rules hang as an exterminating edict! The gradual, but certain extinction of the Scottish peasantry that is now being carried on, will be looked upon by posterity as one of the most disastrous pieces of policy that a malignant ingenuity could invent; and if not calculated to have as baneful effects on the world's civilization, yet it will be classed as being quite as wicked in degree, as that oppression which banished the Italian peasantry from their fields and homes, and overthrew the glorious fabric of Roman civilization.

THE END.







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